ADMISSIONS & CONTINUED OCCUPANCY POLICY

EFFECTIVE - 01 JULY 2026

Any HUD regulations, Interim Rules, Final Rules, PIH Notices, etc., published and implemented by HUD prior and/or subsequent to adoption of this Admissions and Continued Occupancy Policy ("ACOP") that conflict with this ACOP will supersede what is noted in the ACOP, and will be enforced accordingly.

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CHAPTER 1: OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Detroit Housing Commission (DHC) receives operating subsidy for its public housing program from the United States Department of Housing and Urban Development (HUD). DHC is not a federal department or agency. DHC is a public body corporate authorized by Public Act 18 of 1933 (Act 18) to develop and operate housing and housing programs for low-income families in the State of Michigan. The City of Detroit created DHC as it was authorized to do under Act 18. DHC enters into an Annual Contributions Contract (ACC) with HUD to administer a public housing program. DHC must ensure compliance with federal requirements by establishing policies and procedures to clarify federal requirements and to ensure consistency in its public housing program operation.

There are three parts to this chapter:

Part I: The Detroit Housing Commission. This part includes a description of DHC, its jurisdiction, its programs, and its mission and intent.

Part II: DHC's Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.

Part III: DHC's Admissions and Continued Occupancy (ACOP). This part discusses the purpose and organization of the ACOP and its revision requirements.

PART I: THE DETROIT HOUSING COMMISSION

1-I.A. OVERVIEW

This part describes DHC's creation and authorization, the general structure of the organization, and the relationship between DHC's Board and staff.

1-I.B. ORGANIZATION AND STRUCTURE OF DHC

DHC's Low-Income Public Housing Program (LIPH) is funded by the federal government and administered by DHC. The Public Housing units in DHC's portfolio are located in the City of Detroit, Michigan.

DHC is governed by a Board of Commissioners. This document will refer to the "Board" when discussing the Board of Commissioners.

Members of the Board are appointed in accordance with the Michigan Housing Facilities Act (Act 18) and serve in the same function as the directors of a corporation. The Board establishes policies under which DHC conducts business and oversees the implementation of those policies through the appointment and oversight of an Executive Director. The Board is responsible for preserving and expanding DHC's resources and assuring its continued viability and success.

Formal actions of DHC are taken through written resolutions, adopted by the Board, and then entered into DHC's official records. The principal staff member of DHC is the Executive Director (ED), who is selected and hired by the Board. The ED oversees the day-to-day operations of DHC and is directly responsible for carrying out the policies established by the Board. The ED's duties include hiring, training, and supervising DHC's staff, as well as budgeting and financial planning. Additionally, the ED is charged with ensuring compliance with federal laws, state laws, and program mandates.

1-I.C. DHC MISSION

DHC Mission Statement

The Detroit Housing Commission will effectively and efficiently develop, manage, and preserve quality affordable housing.

DHC's Vision

Develop and Maintain Community Partnerships
Promote High Quality Customer Service
Sustain Sound Fiscal Management
Ensure Operational Sustainability

1-I.D. DHC'S COMMITMENT TO ETHICS AND SERVICE

As a public body corporate, DHC is committed to providing excellent service to all public housing applicants, residents, and the public at large. In order to provide superior service, DHC resolves to:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide very low- and low-income families with housing that is safe, habitable, functionally adequate, operable, and free of health and safety hazards. The housing will be in compliance with the National Standards for the Physical Inspection of Real Estate (NSPIRE).
- Achieve a healthy mix of incomes in its public housing developments by attracting and retaining to higher income families and by working toward de-concentration of poverty goals.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational, and other human service needs. Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.
- Create positive public awareness and expand the level of family and community support in accomplishing DHC's mission.
- Attain and maintain high standards and professionalism in day-to-day management of all program components. Administer an efficient, high-performing agency through continuous improvement of DHC's support systems and commitment to our employees and their development.

DHC will make every effort to keep residents informed of program rules and regulations and to advise them how the program rules affect them.

PART II: THE PUBLIC HOUSING PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff with an overview of the history and operation of public housing.

The United States Housing Act of 1937 (the "Act") is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and

cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The United States Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created the federal Department of Housing and Urban Development (HUD).

The United States Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act or United States Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed PHAs more remedies to replace or revitalize severely distressed public housing developments. Highlights of QHWRA include: the establishment of flat rents; the requirement for PHAs to develop five (5) year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and assets is in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule. HUD issued a revised version of the notice on February 2, 2024.

1-II.B. PUBLIC HOUSING PROGRAM BASICS

HUD writes and publishes regulations to implement public housing laws enacted by Congress. HUD contracts with DHC via the ACC to administer programs in accordance with HUD regulations and provides an operating subsidy to DHC. DHC must create written policies that are consistent with HUD regulations. Among these policies is DHC's Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by DHC's Board. The job of DHC, pursuant to HUD regulations, is to provide safe, habitable dwelling units to low-income families at an affordable rent. DHC screens applicants for public housing and, if they are found eligible and accepted, DHC offers the applicants a unit. If the applicant accepts the

offer, DHC will enter into a contract with the applicant known as the lease. At this point, the applicant becomes a resident of the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s), other than a live-in aide, who (1) executed the lease with DHC as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit. The Public Housing Occupancy Guidebook refers to tenants as "residents." The terms "tenant" and "resident" are used interchangeably in this policy. Additionally, this policy uses the term "family" or "families" for residents or applicants, depending on context.

Since DHC owns the public housing development, DHC is the landlord. DHC must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and DHC's policies.

1-II.C. PUBLIC HOUSING PARTNERSHIPS

Relationships between the important parties are defined by federal regulations and by contract. To administer the public housing program, DHC enters into a contractual relationship with HUD through the ACC. DHC also enters into a contractual relationship with the resident through the public housing lease. These contracts outline the roles and responsibilities of each party.

Federal regulations further identify the important roles of the parties involved. For the program to work and be successful, all parties involved, HUD, DHC, and the resident, must fulfill their important roles.

What does HUD do?

Federal law is the source of HUD responsibilities. HUD has the following major responsibilities:

1. Develop regulations, requirements, handbooks, notices, and other guidance to implement housing legislation passed by Congress
2. Allocate operating subsidies to DHC Allocate capital funding to DHC
3. Provide technical assistance to DHC on interpreting and applying program requirements
4. Monitor DHC compliance with program requirements and DHC performance in program administration.

What does DHC do?

DHC's responsibilities originate in federal regulations and the ACC. DHC owns and manages public housing developments, administers the program under contract with HUD and has the following major responsibilities:

1. Establish local policies
2. Review applications from interested applicant families to determine their eligibility for the program and screen them to determine to determine if they will be good renters
3. Offer units to families (minimize vacancies without overcrowding)
4. Maintain waiting list and select families for admission
5. Maintain housing units by making any necessary repairs in a timely manner
6. Maintain properties to the standard of safe, habitable dwelling units (including assuring compliance with NSPIRE)
7. Make sure DHC has adequate financial resources to maintain its housing stock
8. Ensure that families continue to qualify under the program
9. Collect rent due from the assisted family and comply with and enforce provisions of the lease
10. Ensure that families comply with program rules
11. Provide families with prompt and professional service
12. Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the ACC, HUD-approved applications for funding, DHC's ACOP, and other applicable federal, state, and local laws.

What does the Resident do?

The resident's responsibilities are articulated in the public housing lease. The resident has the following broad responsibilities:

1. Comply with the terms of the lease
2. Provide DHC with complete and accurate information, determined by DHC to be necessary for administration of the program
3. Cooperate in attending all appointments scheduled by DHC
4. Allow DHC to inspect the unit at reasonable times and after reasonable notice
5. Take responsibility for care of the housing unit, including any violations of NSPIRE caused by the family
6. Not engage in drug-related or violent criminal activity
7. Notify DHC before moving out of the unit or terminating the lease
8. Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit or assign the lease
9. Promptly notify DHC of any changes in family composition
10. Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled in an effective manner.

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

24 CFR Part 5: General Program Requirements

24 CFR Part 8: Nondiscrimination

- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 100: The Fair Housing Act

24 CFR Part 902: Public Housing Assessment System

24 CFR Part 903: Public Housing Agency Plans

24 CFR Part 945: Designated Housing

24 CFR Part 960: Admission and Occupancy Policies

24 CFR Part 965: PHA-Owned or Leased Projects – General Provisions

24 CFR Part 966: Lease and Grievance Procedures

PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES (ACOP)

1-III.A. OVERVIEW AND PURPOSE OF THE POLICY

The ACOP is DHC's written statement of policies used to carry out the public housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD, and it must be available for public review. The ACOP also contains policies that support the objectives contained in DHC's Annual Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. DHC is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this ACOP, HUD regulations will have precedence.

1-III.B. CONTENTS OF THE POLICY

HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in DHC's written policy. At a minimum, the ACOP should cover DHC policies on these subjects:

- The organization of the waiting list and how families are selected and offered available units, including any DHC admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening DHC's waiting list (Chapters 4 and 5)
- Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)
- Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)
- Procedures for verifying the information the family has provided (Chapter 7)
- The method for achieving de-concentration of poverty and income-mixing of public housing developments (Chapter 4)
- Grievance procedures (Chapter 14)
- Policies concerning payment by a family to DHC of amounts the family owes DHC (Chapter 15 and 16)
- Interim redeterminations of family income and composition (Chapter 9)
- Policies regarding community service requirements (Chapter 11)
- Policies and rules about safety and ownership of pets in public housing (Chapter 10).

Mandatory vs. Discretionary Policy

HUD makes a distinction between mandatory policies and non-mandatory policies:

- Mandatory policies: those driven by legislation, regulations, current handbooks, current PIH notices, and legal opinions from the Office of General Counsel
- Optional, non-binding guidance includes guidebooks, FAQs, PIH notices that have expired, and recommendations from individual HUD staff.

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. The ACOP is comprised of mandatory policies and optional PHA policy. HUD emphasizes the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD suggestions, recommendations, written issuances, and guidance are consistent with mandatory federal policy. Therefore, using HUD guidance in the preparation of PHA policy, even though it is not mandatory, provides a PHA with a "safe harbor." If a PHA adopts an alternative policy, it must make its

own determination that such policy is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than that suggested by HUD, but PHAs should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations, and mandatory policy.

1-III.C. UPDATING AND REVISING THE ACOP

DHC will revise this ACOP as needed to maintain regulatory compliance and to reflect changes in DHC's operations or when needed to ensure staff consistency in operation. This ACOP and any changes must be approved by DHC's Board. The pertinent sections of the ACOP must be included in the Annual Plan

CHAPTER 2: FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring DHC to affirmatively further civil rights and fair housing in all federally assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of DHC's public housing operations.

This chapter describes DHC policies related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing DHC's responsibilities regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the public housing program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973 and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details DHC's obligations to ensure meaningful access to the public housing program and its activities by persons with limited English proficiency (LEP).

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require DHC to treat all applicants and resident families equally, providing the same quality of service, regardless of family characteristics and background. Federal

law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, disability, marital status, gender identity, and sexual orientation. DHC will comply with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

1. Title VI of the Civil Rights Act of 1964
2. Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
3. Executive Order 11063
4. Section 504 of the Rehabilitation Act of 1973 The Age Discrimination Act of 1975
5. Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
6. The Violence Against Women Act (VAWA)
7. The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012, and further clarified in Notice PIH 2014-20
8. Any applicable state laws or local ordinances and any legislation protecting individual rights of residents, applicants, or staff that may subsequently be enacted
9. When more than one civil rights law applies to a situation, the laws will be read and applied together.

2-I.B. NON-DISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements can prohibit discrimination against additional classes of people. DHC shall not discriminate in the provision of public housing based on race, color, sex, religion,

familial status, age, disability, or national origin related to any housing covered by an ACC that is under DHC's jurisdiction.

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of eighteen (18).

DHC will not discriminate on the basis of marital status, gender identity, or sexual orientation

Fair Housing posters and housing information will be displayed in locations throughout DHC's offices.

DHC shall not automatically deny admission to a particular group or category of otherwise qualified applicants who are members of a protected class.

DHC will not use any of these factors to:

1. Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
2. Provide housing that is different from that provided to others
3. Subject anyone to segregation or disparate treatment
4. Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
5. Treat a person differently in determining eligibility or other requirements for admission
6. Steer an applicant or resident toward or away from a particular area
7. Deny anyone access to the same level of services
8. Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
9. Discriminate in the provision of residential real estate transactions DHC will not:
10. Discriminate against someone because, they are related to or associated with a member of a protected class
11. Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

Providing Information to Families

DHC will take steps to ensure that families are fully aware of applicable civil rights laws. As part of the public housing orientation process, DHC will provide information to public housing applicant families about civil rights requirements.

2-I.C DISCRIMINATION COMPLAINTS

Applicants or resident families who believe that they have been subject to unlawful discrimination may notify DHC either orally or in writing. DHC will attempt to remedy discrimination complaints made against DHC.

In all cases, DHC may advise the family to file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act. Upon receipt of a housing discrimination complaint, DHC is required to:

Provide written notice of the complaint to those alleged and inform the complainant that such notice was made. Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted. Keep records of all complaints, investigations, notices, and corrective actions.

Complaints under the Equal Access Final Rule (Notice PIH 2014-20)

Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that PHAs provide equal access regardless of marital status, gender identity, or sexual orientation. The PHA will be informed of these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins.

Applicants or tenant families who believe that they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Rule may notify DHC either orally or in writing.

Within 10 business days of receiving the complaint, DHC will provide a written notice to those alleged to have violated the rule. DHC will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

DHC will attempt to remedy discrimination complaints made against DHC and will conduct an investigation into all allegations of discrimination.

Within 10 business days following the conclusion of DHC 's investigation, DHC will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

DHC will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

VAWA Complaint Processing

A complainant may, not later than one (1) year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one (1) year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one (1) year after the alleged violation occurred or terminated, FHEO may,

but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

Applicants or tenant families who wish to file a VAWA complaint against DHC may notify DHC either orally or in writing.

DHC will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). DHC will inform the family that not later than one (1) year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

DHC will attempt to remedy complaints made against DHC and will conduct an investigation into all allegations of discrimination.

DHC will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

DHC must ensure that persons with disabilities have full access to DHC's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program.

DHC will ask all applicants and resident families if they require any type of accommodations, in writing, during the application process, during the reexamination process, and on notices of adverse action by DHC.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A “reasonable accommodation” is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for DHC or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of DHC’s operations.

Types of Reasonable Accommodations

When it is reasonable (see definition above and Section 2-II.E), DHC shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail Conducting home visits.
- Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability.
- Installing a ramp into a dwelling or building Installing grab bars in a bathroom.
- Installing visual fire alarms for hearing impaired persons.
- Allowing a DHC-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities and would not be otherwise living in the unit.
- Providing a designated handicapped-accessible parking space Allowing a service or an assistance animal.
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with DHC staff.
- Displaying posters and other housing information in locations throughout DHC’s office in such a manner as to be easily readable from a wheelchair.

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or resident indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that DHC treat the information as a request for a reasonable accommodation, even if no formal request is made. The family must explain what type of

accommodation is needed to provide the person with the disability full access to DHC's programs and services.

If the need for the accommodation is not readily apparent or known to DHC, the family must explain the relationship between the requested accommodation and the disability.

DHC will encourage the family to make its request in writing using the reasonable accommodation request form provided by DHC. However, any time the family indicates that an accommodation is needed, DHC will consider the accommodation whether or not a formal written request is submitted.

DHC's Reasonable Accommodations Policy is listed in the Supplemental Policies to this ACOP.

2-II.D. VERIFICATION OF DISABILITY

Before providing an accommodation, DHC must determine that the person meets the definition of a person with a disability and that the accommodation will enhance the family's access to DHC's programs and services.

If a person's disability is obvious or otherwise known to DHC, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required. If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to DHC, DHC must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, DHC will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability.

DHC must request only information that is necessary to evaluate the disability-related need for the accommodation. DHC may not inquire about the nature or extent of any disability.

Medical records will not be accepted or retained in the resident's file.

In the event DHC does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, DHC will dispose of it. In place of the information, DHC will note

in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information.

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

DHC must approve a request for an accommodation if the following three conditions are met.

1. The request was made by or on behalf of a person with a disability.
2. There is a disability-related need for the accommodation.
3. The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on DHC, or fundamentally alter the nature of DHC's operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by- case basis involving various factors, such as the overall size of DHC's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, DHC may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that DHC may verify the need for the requested accommodation.

After a request for an accommodation is presented, DHC will respond, in writing, within 30 business days.

If DHC denies a request for an accommodation because there is no relationship, or nexus found between the disability and the requested accommodation, the notice will inform the family of the right to appeal DHC's decision through an informal hearing, if applicable, or the grievance process (see Chapter 14).

If DHC denies a request for an accommodation because it is not reasonable, i.e., it would impose an undue financial and administrative burden or fundamentally alter the nature of DHC's operations, DHC will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the public housing program and without imposing an undue financial and administrative burden.

If DHC believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, DHC will notify the family, in writing, of its determination within 20 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal DHC's decision through an informal hearing, if applicable, or the grievance process (see Chapter 14).

2-II.F. REASONABLE ACCOMMODATION (24 CFR §5.403) (HUD GENERAL COUNSEL OPINION ON MEDICAL MARIJUANA, 1/20/2011)

Medical Marijuana Use as a Reasonable Accommodation

Federal and state nondiscrimination laws do not permit housing authorities to accommodate requests by current or prospective residents with disabilities to use medical marijuana. DHC may not permit the use of medical marijuana as a reasonable accommodation because such accommodations are not reasonable under the Fair Housing Act and would constitute a fundamental alteration in the nature of the operations of the program (HUD General Counsel Opinion on Medical Marijuana, 1/20/2011, pgs1-2).

Person(s) seeking a reasonable accommodation to allow the use of medical marijuana are not "individuals with a disability" under Section 504 or the ADA and therefore do not qualify for a reasonable accommodation to allow the use of medical marijuana. Furthermore, because such requests are tantamount to requests to become an illegal drug user, DHC is prohibited from granting such a request (HUD General Counsel Opinion on Medical Marijuana, 1/20/2011, pg. 6).

2-II.G. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS [24 CFR 8.6]

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display

/ teletype) communication is available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with DHC staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third-party representative such as a friend, relative or advocate, named by the applicant or resident to receive, interpret, and explain housing materials and be present at all meeting.

2-II.H. PHYSICAL ACCESSIBILITY

DHC must comply with a variety of federal requirements pertaining to physical accessibility, including the following: Section 504 of the Rehabilitation Act of 1973; The Americans with Disabilities Act of 1990; The Architectural Barriers Act of 1968; The Fair Housing Act of 1988.

DHC's policies concerning physical accessibility are readily available to applicants and resident families. They can be found in three key documents.

The ACOP describes the key policies that govern DHC's responsibilities with regard to physical accessibility.

HUD PIH Notice 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally funded housing programs.

The Annual Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of DHC facilities will conform to the Uniform Federal Accessibility Standards (UFAS).

Newly constructed facilities will be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities will be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

2-II.I. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 966.7]

DHC's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation.

When applicants with disabilities are denied assistance, the notice of denial will inform them of their right to request an informal hearing.

When a family's lease is terminated, the notice of termination will inform the family of their right to request a hearing in accordance with DHC's grievance process.

When reviewing a reasonable accommodation request, DHC must consider whether a reasonable accommodation will allow the family to overcome the problem that led to DHC's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, DHC must make the accommodation. In addition, DHC will provide a reasonable accommodation for persons with disabilities to participate in the hearing process.

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

DHC will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Limited English Proficiency (LEP) persons.

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. For the purposes of this ACOP, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.

In order to determine the level of access needed by LEP persons, DHC will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the public housing program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to DHC and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on DHC.

2-III.B. ORAL INTERPRETATION

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, DHC will take reasonable steps to offer, or ensure that the family is offered through other sources, competent interpretation services free of charge to the LEP person. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits. Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by DHC. The interpreter may be a family member or friend.

2-III.C. WRITTEN TRANSLATION

PHA Policy

In order to comply with written-translation obligations, DHC will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons,

whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, DHC may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials.

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, DHC shall determine whether it is necessary to develop a written Language Assistance Plan (LAP) to address the identified needs of the LEP populations it serves.

If DHC determines that it is not necessary to develop a written LAP, the absence of a written LAP, it will nonetheless provide LEP services as necessary.

If DHC determines it is appropriate to develop a written LAP, the following three steps will be taken: (1) identifying language assistance measures; (2) training staff; and (3) monitoring and updating the LAP as needed.

CHAPTER 3: ELIGIBILITY

INTRODUCTION

DHC is responsible for ensuring that every individual and family admitted to the public housing program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by DHC to confirm eligibility and determine the level of the family's assistance.

To be eligible for the public housing program, the applicant family must:

- Qualify as a family as defined by HUD and DHC.
- Have income at or below HUD-specified income limits.
- Qualify on the basis of citizenship or the eligible immigrant status of family members.
- Provide social security number information for household members as required.
- Consent to DHC's collection and use of family information as provided for in DHC-provided consent forms.
- Not currently be receiving a duplicative subsidy.
- Meet net asset and property ownership restriction requirements.

DHC must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or DHC.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains DHC's definition of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Admission. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause DHC to deny admission as well as the asset limitation for public housing.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the public housing unit. This part provides information that is needed to correctly identify family and household members and to apply HUD's eligibility rules.

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.105(A)(2), 24 CFR 5.403, FR NOTICE 02/03/12, NOTICE PIH 2014-20, NOTICE PIH 2023-27, AND FR NOTICE 2/14/23]

The terms *family* and *household* have different meanings in the public housing program.

Family

To be eligible for admission, an applicant must qualify as a family. Family as defined by HUD, includes but is not limited to the following regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, displaced person, near-elderly person, or any other single person; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or a group of persons residing together. Such group includes but is not limited to, a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, and the remaining member of a resident family. A family may be a single person or a group of persons. Family includes a family with a child or children, two or more elderly or disabled persons living together, one or more elderly or disabled persons living with one or more live-in aides, or a single person. DHC has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

PHA Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or

certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application and must update this information if the family's composition changes.

Notwithstanding anything to the contrary, in order to qualify as a family in the context of a head of household with minors who are not the head of household's children, either:

(1) a court order establishing custody, or

(2) an affidavit from the parent, which establishes custody with the head of household, is required, or

(3) If the parent or legal guardian is deceased, their whereabouts are unknown, or they are unresponsive, the head of household must provide an affidavit declaring one of the foregoing and that the child(ren) is/are residing with him/her and also provide proof of kinship care by producing documents relating to school, TANF, Medicaid or medical records, or

(4) a notarized power of attorney specific to custody and that the child(ren) is/are residing with him/her and also provide proof of kinship care by producing documents relating to school, TANF, Medicaid or medical records.

A family does not include:

(1) a housekeeper or live-in aide, or

(2) foster children and/or foster adults.

Each family must identify the individuals to be included in the family at the time of application and must update this information if the family's composition changes.

Household

"Household" is a broader term that includes additional people who, with DHC's permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF RESIDENT FAMILY

Family Breakup

Except under the following conditions, the DHC has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the DHC must ensure that the victim retains assistance. For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking, and human trafficking see section 16-VII.D of this ACOP.
- If a court determines the disposition of property between members of the assisted family, the DHC is bound by the court's determination of which family members continue to receive assistance; the DHC will abide by the court's determination.

PHA Policy

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may submit a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will retain occupancy of the unit. The family may request a change of head of household unless DHC determines, in its sole discretion that the requested change is for the purpose of the family obtaining a benefit by circumventing a limitation or requirement of the housing program, federal statute, regulation or other DHC policy.

If a court determines the disposition of property between members of an applicant or resident family, the DHC will abide by the courts determination.

In the absence of a judicial decision or an agreement among the original family members, DHC will determine which family will retain their placement on the waiting list or continue in occupancy. As a general rule, the applicant listed as head of household on the original application will retain the original application date and time. Former family members listed as co-head or other adults will be required to make a new application with a new application date and time. In making its determination, DHC will take into consideration the following factors:

(1) the interest of any minor children, including custody arrangements;

(2) the interest of any ill, elderly, or disabled family members;

(3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 16-VII.D of this ACOP;

(4) any possible risks to family members as a result of criminal activity;

(5) the original wait list applicant; and

(6) the recommendations of social service professionals.

Remaining Member of a Resident Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a resident family*, which is a member of a resident family who remains in the unit when other members of the family have left the unit [PH Occ GB, p. 26]. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only "remaining members of a resident family" and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B., for the policy on "Caretakers for a Child."

3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(B)]

"*Head of household"* means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head or spouse.

PHA Policy

The family may designate any qualified family member as the head of household. Changes to the head of household will be permitted once between annual reexaminations. Exceptions to this policy must be approved by the Director of Real Estate Management or designee.

The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under Michigan law may be designated as head of household.

3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT

A family may have a spouse or co-head, but not both. [HUD-50058 IB, p. 13].

"Spouse" means the marriage partner of the head of household.

PHA Policy

A "marriage partner" includes the partner in a "common law" marriage as defined in state law. Michigan law does not recognize common law marriages. DHC, however, will recognize common law marriages based on the laws of another state if the couple qualifies under the laws of states that recognize common law marriage.

The term "*Spouse*" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A *co-head* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head.

PHA Policy

Minors who are emancipated under state law may be designated as a co-head.

Other adult means a family member, other than the head of household, spouse, or cohead, who is 18 or older. Foster adults and live-in aides are not considered other adults [HUD-50058 IB, p. 14].

3-I.F. DEPENDENT AND MINORS [24 CFR 5.603]

A *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.

A *dependent* is a family member who is under 18 or a person of any age who is a person with a disability or a full-time student, except that the head of household, spouse, co-head, foster children/adults and live-in aides can never be dependents. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

PHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family, (regardless of program), are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, DHC will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603]

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Identifying each FTS is important because (1) each family member that is an FTS, other than the head of household, spouse, or co-head, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100, 5.403, 945.105, AND FR NOTICE 02/03/12]

Elderly Persons

An *elderly person* is a person who is at least 62 years of age.

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age.

Elderly Family

An *elderly family* is one in which the head of household, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR NOTICE 02/03/12]

Persons with Disabilities

Under DHC's public housing program, special rules apply to persons with disabilities and to any family whose head of household, spouse, or co-head is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the DHC must make all aspects of the public housing program accessible to persons with disabilities and consider requests for reasonable accommodations when a person's disability limits their full access to the unit, the program, or the PHA's services.

Disabled Family

A *disabled family* is one in which the head of household, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent DHC from denying admission for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from enforcing the lease following the policies in Chapter 13.

3-I.J. GUESTS [24 CFR 5.100]

A *guest* is defined as a person temporarily staying in the unit with the consent of a resident or other member of the household who has express or implied authority to so consent on behalf of the resident.

The lease must provide that the resident has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near DHC premises [24 CFR 966.4(f)].

PHA Policy

A resident family must notify DHC when overnight guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period.

A family may request an exception to this policy for valid reasons, e.g., care of a relative recovering from a medical procedure expected to last 20 consecutive days. An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests.

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603]

A *foster adult* is a member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

A *foster child* is a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].

PHA Policy

A foster child or foster adult may be allowed to reside in the unit if their presence would not overcrowd the unit.

DHC will require the applicant or tenant family to provide documentation to support such arrangement in their household.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-I.L. ABSENT FAMILY MEMBERS

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, and illness.

Definitions of Temporarily and Permanently Absent

PHA Policy

Generally, an individual who is or is expected to be absent from the public housing unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the public housing unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

PHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to DHC indicating that the student has established a separate household, or the family declares that the student has established a separate household. This applies at time of initial application as well. To be considered a family member, the individual attending school must be enrolled in an accredited two (2) or four (4) year college or training institution and the student will reside in the unit during holidays and summer breaks.

Absences Due to Placement in Foster Care [24 CFR 5.403]

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

PHA Policy

If a child has been placed in foster care, DHC will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member for initial eligibility and continued occupancy purposes. For occupancy standards, the temporarily absent child will be counted as a family member.

Absent Head of Household, Spouse, or Co-head

PHA Policy

An employed head of household, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Individuals Confined for Medical Reasons

PHA Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, DHC will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

PHA Policy

The family must request DHC approval for the return of any adult family members that DHC has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed in this chapter.

3-I.M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near elderly persons, or persons with disabilities, and who:

(1) is determined to be essential to the care and well-being of the persons,

(2) is not obligated for the support of the persons, and

(3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

DHC must approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by a family member with disabilities, in accordance with 24 CFR 8.

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a resident family.

PHA Policy

A family's request for a live-in aide must be made in writing. The DHC will verify the need for a live-in aide by obtaining written verification with a reliable, knowledgeable professional of the family's choosing, such as a doctor, social worker, or case worker, that the live-in aide is essential for the

care and well- being of the elderly, near elderly, or disabled family member unless the disability-related need is apparent or known to the DHC. For continued approval, the family may submit a new, written request, subject to DHC verification, at each annual reexamination. At the annual reexamination, the head of household requesting the live-in aide as well as the live-in aide must sign the live-in aide addendum to the lease and the live-in aide contact form.

In addition to the live-in aide addendum to the lease, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The DHC has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 966.4(d)(3)(i)]:

(1) The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

(2) The person has a history of drug-related criminal activity or violent criminal activity; or

(3) The person currently owes rent or other amounts to DHC or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Within 30 business days of receiving a request for a live-in aide, including all required documentation related to the request, the DHC will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to establish income limits that determine the income eligibility of applicants for HUD's assisted housing programs, including the public housing program. The income limits are published annually and are based on HUD estimates of the median incomes for families of different sizes in a particular area or county.

Types of Low-Income Families [24 CFR 5.603(b)]

Low-income family: A family whose annual income does not exceed eighty percent (80%) of the median income for the area, adjusted for family size.

Very low-income family: A family whose annual income does not exceed fifty percent (50%)of the median income for the area, adjusted for family size.

Extremely low-income family: A family whose annual income does not exceed the federal poverty level or thirty percent (30%) of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

HUD also publishes over-income limits annually, but these are not used at admission. Over-income limits will be discussed in Chapter 13.

Using Income Limits for Eligibility [24 CFR 960.201 and Notice PIH 2023-27]

Income limits are used to determine eligibility at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income- eligible, the annual income of an applicant must be within the *low-income* limit. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and occupancy standards.

Using Income Limits for Targeting [24 CFR 960.202(b)]

At least 40 percent of the families admitted from the DHC's public housing waiting list to the program during the DHC's fiscal year must be *extremely low-income* families. This is called the "basic targeting requirement."

If admissions of extremely low-income families to DHC's housing choice voucher program during the DHC's fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against DHC's public housing basic targeting requirement for the same fiscal year.

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

1. Ten percent of public housing waiting list admissions during the DHC fiscal year
2. Ten percent of waiting list admission to DHC's housing choice voucher program during DHC's fiscal year
3. The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For discussion of how income targeting is used in resident selection, see Chapter 4.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, SUBPART E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals, herein referred to as citizens and nationals, or non-citizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with DHC's Limited English Proficiency Plan, if any, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible non-citizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible non-citizens. For citizens, nationals, and eligible non-citizens the declaration must be signed personally by the head of household, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status. No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the DHC to request additional documentation of their status, such as a passport.

PHA Policy

Family members who declare citizenship or national status will not be required to provide additional documentation unless the DHC receives information indicating that an individual's declaration may not be accurate.

Eligible Non-citizens

In addition to providing a signed declaration, those declaring eligible non-citizen status must sign a verification consent form and cooperate with DHC's efforts to verify their immigration status as described

in Chapter 7. The documentation required for establishing eligible non-citizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members list, signed by the head of household, spouse, or co-head, (regardless of citizenship status), indicating their ineligible immigration status. The DHC is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to non-citizen students is prohibited [24 CFR 5.522]. This prohibition extends to the non-citizen spouse of a non-citizen student as well as to minor children who accompany or follow to join the non-citizen student. Such prohibition does not extend to the citizen spouse of a non-citizen student or to the children of the citizen spouse and non- citizen student. Such a family is eligible for pro-rated assistance as a mixed family.

Mixed Families

A family is eligible for admission as long as at least one member is a citizen, national, or eligible non-citizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are pro-rated, and Chapter 14 for a discussion of informal hearing procedures.

Ineligible Families [24 CFR 5.514(d), (e), and (f)]

DHC may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by DHC that the individual or at least one family member is eligible [24 CFR 5.512(a)]

PHA Policy

DHC will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible non-citizen.

When DHC determines that an applicant family does not include any citizens, nationals, or eligible non-citizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with DHC. The informal hearing with DHC may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 14.

Time Frame for Determination of Citizenship Status [24 CFR 5.508(g)]

For new occupants joining the resident family the DHC must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, DHC must grant such an extension for no more than 30 days.

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

PHA Policy

DHC will verify the status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 & 5.218, NOTICE PIH 2018-24]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within the 6 months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission. A detailed discussion of acceptable documentation is provided in Chapter 7.

Note: These requirements do not apply to non-citizens who do not contend eligible immigration status.

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

If the provided documentation is not acceptable evidence of the social security number, DHC will explain to the applicant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to DHC within (30) thirty calendar days. The explanation and request will be documented in the applicant file. If the applicant family is otherwise eligible to participate in the program, the family will maintain its position on the waiting list for these thirty (30) calendars day period. If all household members have not disclosed their SSN at the time a unit becomes available, the available unit will be offered to the next eligible applicant family on the waiting list.

If the family is unable to comply with the requirements, ***due to circumstances that could not have reasonably been foreseen and were outside the control of the family,*** DHC will grant one additional 90-day extension if needed for reasons beyond the applicant family's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family or other emergency.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230 AND 24 CFR 5.232]

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886-A, Authorization for the Release of Information Privacy Act Notice, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

The DHC must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow DHC to obtain information that the DHC has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b) and 24 CFR 5.232(a)].

Upon the DHC's HOTMA 102/104 compliance date, the following on revocation of consent is added:

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of the DHC to access financial records from financial institutions, unless the DHC establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance. [24 CFR 5.232(c)].

PHA Policy

DHC has established a policy that the family's revocation of consent to allow the DHC to access records from financial institutions will result in denial of admission.

3-II.F. EIV SYSTEM SEARCHES [EIV FAQS; EIV SYSTEM TRAINING 9/30/20; NOTICE PIH 2023-27]

Existing Tenant Search

Prior to admission to the program, the DHC must search for all household members using the EIV Existing Tenant Search module. The DHC must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. The DHC must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, the PHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

PHA Policy

The DHC will contact the other PHA, or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. The DHC will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

Debts Owed to PHAs and Terminations

All adult household members must sign the form HUD-52675, Debts Owed to Public Housing and Terminations. Prior to admission to the program, the PHA must search for each adult family member in the Debts Owed to PHAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three (3) years from the end of participation date in the program.

PHA Policy

DHC will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

DHC will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the DHC will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

EIV Income Reports

For each new admission, the DHC is required to review income information in EIV to confirm and validate family reported income within 120 days after the move-in information is transmitted to HUD. The DHC must print and maintain copies of the reports in the tenant file and resolve any discrepancies with the family.

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW (SCREENING FOR ELIGIBILITY AND DENIAL OF ASSISTANCE)

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied admission.

In addition, HUD requires or permits DHC to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The DHC's authority in this area is limited by the Violence against Women Act (VAWA), which prohibits the denial of admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking [24 CFR 5.2005(b)].

While the regulations state that the PHA must prohibit admission for certain types of criminal activity and give the PHA the option to deny for other types of previous criminal history, more recent HUD rules and OGC guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission.

When considering any denial of admission, PHAs may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds PHAs of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16]. HUD codified this stance on disparate impact and discriminatory effects in a final rule dated March 31, 2023. In doing so, HUD also standardized its long-practiced three-step approach to assessing burdens of proof.

PHAs who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Even a PHA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the PHA must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

This part covers the following topics:

1. Required denial of admission
2. The asset limitation in public housing
3. Other permitted reasons for denial of admission
4. Screening
5. Criteria for deciding to deny admission
6. Prohibition against denial of admission to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking
7. Notice of eligibility or denial

DHC's developments will not be used as housing of last resort. All applicants for Public Housing will be screened according to the basic policies and standards set forth in DHC's Admission and Continued Occupancy Policy (ACOP).

GENERAL PRINCIPLES OF SCREENING

The screening criteria in the Admissions and Continued Occupancy Policy are based on those set forth in HUD Regulations [24 CFR Part 960.205] and in the applicable sections of the Quality Housing and Work

Responsibility Act of 1998 (QHWRA). The regulations require an assessment of the behavior of each applicant with respect to the essential obligations of tenancy as expressed in the PHA's lease. The essential obligations of tenancy may be summarized as follows:

1. To pay rent and other charges under the lease in the manner set forth by the PHA in the lease.
2. To care for and avoid damaging the unit and common areas, to use facilities and equipment in a reasonable way; not to create or maintain health, safety, or sanitary hazards and to promptly report maintenance needs.
3. Not to interfere with the rights and enjoyment of others and not to damage the property of others.
4. Not to engage in criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents or staff and not to engage in drug-related criminal activity on or off the premises.
5. To comply with necessary and reasonable rules and program requirements of HUD and DHC.
6. To comply with health and safety codes.

3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

DHC is required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or, if the DHC has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.

Screening for Criminal Record

Where the statute requires that the DHC prohibit admission for a prescribed period of time after some disqualifying behavior or event, the DHC may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

DHC will conduct a criminal record check for all applicants who are 18 years of age or older in the household to determine:

(1) Whether any member of the household is subject to a mandatory federal requirement for denial of admission, and

(2) Whether any member of the household has one or more criminal conviction(s) that represent a risk to the safety and well-being of the community. This record check will be conducted at the time of final eligibility determination.

For any denial based on a household member's criminal record, DHC may permit eligibility to the program conditioned on the exclusion of the denied family member from the household.

Federally Barred Admission

HUD requires DHC to deny assistance in the following cases:

- Any member of the household has been evicted from federally assisted housing in the last three years for drug-related criminal activity. HUD permits, but does not require, DHC to admit an otherwise-eligible family if the household member has completed a DHC-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

  PHA Policy

  The DHC will admit an otherwise-eligible family who was evicted from federally assisted housing within the past three years for drug-related criminal activity, if the DHC is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the PHA, or the person who committed the crime is no longer living in the household.

- If DHC determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].
  (a) "*Currently engaged in the illegal use of a drug*" means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].
  (b) *"Recently enough",* is defined as, any use of illegal drugs during the previous six (6) months.

PHA Policy

Currently engaged in is defined as any use of illegal drugs during the previous three months.

- The DHC has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.

  PHA Policy

  In determining reasonable cause, the DHC will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members

related to the use of illegal drugs or the abuse of alcohol. A record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity. The PHA will also consider evidence from treatment providers or community-based organizations providing services to household members. A conviction will be given more weight than an arrest. The DHC may, at its discretion, also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing. For the purposes of this document, federally assisted housing is defined as any housing in which a resident's housing is subsidized, or the housing provider receives subsidy, either directly or indirectly, from a federal agency or federal housing program (including, but not limited to Public Housing, the Housing Choice Voucher program, Project Based Rental Assistance, and others).

  PHA Policy

  (a) If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine, the family will be denied admission.
  (b) If any household member has been evicted from federally assisted housing for drug-related criminal activity during the previous three (3) years, the family will be denied admission, except if one of the following occurred:
    i. The circumstances leading to the eviction no longer exist.
    ii. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program.

- If any household member is subject to a lifetime registration requirement under a State sex offender registration program.
- If any household member is currently registered as a lifetime sex offender under any State registration requirement, the family will be denied admission. PIH 2012-28, HUD regulations at 24 CFR § 5.856, § 960.204(a)(4), and § 982.553(a)(2)

Other Criminal Records

Except as mandated by federal law, no applicant for the LIPH program will be automatically barred from receiving housing assistance because of his or her criminal background.

For applicants not barred by federal law, the applicant's criminal conviction(s) will be assessed to determine the risk the applicant poses to the safety and well-being of the community using valid written criteria, applicable laws including fair housing laws, and applicable regulations.

Drug and Alcohol Abuse

In an effort to prevent drug-related criminal activity, as well as other patterns of behavior that pose a threat to the health, safety, or the right to peaceful enjoyment of the premises by other residents, the DHC will endeavor to screen applicants as fairly as possible.

DHC will not deny admission if the household member who is currently engaging in the abuse of alcohol, is enrolled in a supervised rehabilitation program.

In determining reasonable cause or reasonable belief, DHC will consider all credible evidence including, but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. DHC will also consider evidence from treatment providers or community-based organizations providing services to household members, self-admission, admission during testimony, or admissions on a police report. A record of arrest alone will not be used to determine reasonable cause or reasonable belief, unless DHC has sufficient evidence other than the fact of arrest that the individual engaged in the conduct within the past six (6) months. See 3III.B. 2(a) and 2(b) regarding the definition of "currently engaged".

3-III.C. RESTRICTION ON ASSITANCE BASED ON ASSETS [24 CFR 5.618]

There are two circumstances under which a family is ineligible for the program based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed the HUD published asset limitation amount (adjusted annually by HUD)

- This amount is listed in HUD's current year Inflation-Adjusted Values tables
- $100,000 for 2024, $103,200 for 2025

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property;

- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

The DHC does not have the discretion not to enforce or provide limited enforcement of the asset limitation at admission. However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
    - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;

  PHA Policy

  The DHC defines *not sufficient for the size of the family* as being overcrowded based on DHC's occupancy standards in Chapter 5.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);

PHA Policy

In general, the DHC defines a *geographic hardship* to include when a family members' work, school, health care provider, or other necessary service is located an unreasonable distance from the real property or there is a lack of adequate transportation options for the family to access work, school, health care, or other necessary services. The PHA will consider circumstantial details a family faces when determining whether a geographical hardship is present.

- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

If a family meets one of the above exceptions, the real property is not automatically excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets as described in 24 CFR 5.603 and Chapter 6 of this policy, it will be included in net family assets. If the value of that real property brings the net family assets above the HUD-published asset limitation amount, the family is out of compliance with the asset limitation.

See Chapter 7 for information on verifying net family assets for purposes of the asset limitation.

3-III.D. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

HUD permits but does not require the PHA to deny admission for the reasons discussed in this section.

Preliminary Eligibility Criteria

All site-based preliminary waitlist applications submitted and accepted though DHC's Application Portal will be reviewed to determine if the applicant family meets the minimum eligibility requirement to remain on the waitlist. If an applicant is found to be preliminarily ineligible, their application will not be added to the program's waiting list. Background screenings will be conducted and reviewed at the time of final determination and eligibility.

Screening for Eligibility

DHC is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the DHC in complying with HUD requirements and DHC's policies to deny assistance to applicants who are currently engaging in or

have engaged in, certain criminal activities. In order to obtain access to the records, DHC must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903]. DHC may not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d).

DHC is required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)]. If DHC proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the DHC must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

DHC does not obtain criminal conviction records directly from law enforcement agencies at the time of admission. DHC complies with 24 CFR 5.903(f) and 5.905(d) in the following manner:

(1) DHC will require each household member aged 18 and older to sign a consent form allowing DHC to request the criminal history report.

(2) Once the consent form is signed, DHC will request the criminal history report from its third-party vendor or other government agency.

(3) Upon review of the report, if there is information on the report that may be grounds for a denial, DHC will share the information with the applicant and the subject of the record and provide an opportunity for the family to dispute the accuracy of the information or provide additional relevant information.

(4) After review of the report and any information provided by the family, DHC will determine if a denial is applicable. If a denial is warranted, a written notice of denial will be given to the family if they are present or mailed to the family if not present. The notice will provide the detailed summary of the criminal history that caused the proposed denial. Additionally, the denial notice will advise the applicant of the right to request an informal hearing to dispute the accuracy of the data and the basis for the denial. The request must be made in writing within 15 calendar days of the date of the denial notice.

(5) If the family fails to request an informal hearing within 15 calendar days of the date of the official denial letter, the denial shall become final.

The DHC will screen all adult applicants using the Dru Sjodin National Sex Offender database, an online National Sex Offender database covering sex offender registries in all states, the District of Columbia, the

principal U.S. territories, and more than 150 Indian tribes. DHC may conduct a criminal history review at a national level (at no cost to the resident).

The following criteria shall be used to determine ineligibility:

1. DHC shall prohibit admission to the public housing program of an applicant for five (5) years from the date of eviction or termination if a household or family member has been evicted or terminated from federally assisted housing for drug-related criminal activity.
2. If the household or family vacated in lieu of eviction from a DHC property, due to a household or family member engaging in drug-related criminal activity within five (5) years from the date of application.
3. Subject to the review of DHC's Chart of Offenses Criminal Background Screening Criteria, DHC may prohibit the admission to the public housing program for the following:
    a. DHC has documentation confirming the household or family member engaged in the drug-related criminal activity **and**
    b. DHC has documentation confirming that it started the eviction process with the family (e.g. issuance of a 30-day notice or termination lease letter, issuance of a notice to vacate letter, notice of intent to vacate in lieu of eviction signed by tenant, filing a forcible detainer lawsuit against the family and / or other records); **and**
    c. The offender that is identified in the documentation is still listed as a member of the household or family on the new application
4. If the family vacated in lieu of eviction from any DHC property for any reason *other than drug-related criminal activity* within two (2) years from the date of application, DHC will prohibit admission to the public housing program for the following reasons:
    a. DHC has documentation supporting the grounds for termination that would have led to the eviction of the household or family (e.g. criminal records including, but not limited to, probable cause affidavits, court records, police reports, criminal background reports, etc.; other records, including but not limited to notes, photographs, resident ledgers, complaint records, incident reports, prior tenant file documentation, etc.; and / or other official documents); **and**
    b. DHC has documentation confirming that it started the eviction process with the family (e.g. issuance of a 30-day notice of termination letter, issuance of a notice to vacate letter, notice of intent to vacate in lieu of eviction signed by tenant, filing a forcible detainer lawsuit against the family, and / or other records); and
    c. The family member or members identified in that documentation are still listed as members of the family on the new application.

5. For the purpose of providing a housing opportunity to as many applicants as possible, 12 months should elapse before an applicant is preliminarily eligible to reapply for the same program they have just moved out of. This shall include voluntary move outs and shall exclude DHC-initiated unit transfers and current residents who are currently on the transfer waitlist for another DHC development.
6. An applicant is deemed ineligible and shall be rejected if applying for the same program for which they have already been denied admissions, due to criminal history or derogatory rental history, unreported income, or fraud within a 12-month period. The applicant will not be eligible to request an informal review of this rejection, due to the fact that the applicant was offered an informal review when they were initially denied admissions for criminal history and/or derogatory rental history. Twelve months (12) should elapse from the date of denial or date of the hearing decision, whichever is later.
7. An applicant is deemed preliminarily ineligible and shall be rejected if applying for the public housing program and has rejected a public housing unit offer from DHC within the last 12 months from the date of the last housing offer.

As discussed in Section 3-III.F, DHC may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

Criminal Activity **[24 CFR 960.203 (c)]**

DHC may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts that would adversely affect the health, safety, or welfare of other tenants.

PHA Policy

If any household member is currently engaged in or has engaged in any of the following criminal activities, during the designated review period, the family will be denied admission based on **DHC's Chart of Offenses Criminal Background Screening Criteria.**

Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].

Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].

Criminal activity that may threaten the health or safety of DHC staff, contractors, subcontractors, or agents.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to:

> Any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past three years.
>
> A record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

The Criminal Background Screening Criteria Grid generally applies to convictions. A record of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity. If an expunged conviction appears on a criminal background report, it will not be considered in the screening process. Attempts and conspiracies to commit a crime will be treated the same way as the primary crime.

For example, an applicant with a conviction for attempted murder will be screened the same way as a person with a conviction for murder.

Except as mandated by federal law, no applicant will be automatically denied because of his or her criminal background.

(a) For applicants not barred by federal law, the applicant's criminal conviction(s) will be assessed to determine the risk the applicant poses to the safety and well-being of the community. DHC has identified particular criminal convictions that may suggest future risk (see below) and thus warrant closer examination of an individual's application. For any applicant with criminal history that falls into one of the below categories and time periods, DHC will individually determine whether or not the particular applicant poses a significant level of risk to the safety and well-being of the community and will only deny an applicant after making such a determination. This determination will be based on the totality of the circumstances, as explained by the written criteria provided within DHC's admission policy and guidelines. Before making a decision to admit or deny applicants with relevant criminal convictions, the applicant shall be given an opportunity for an in-person individualized review based on accurate information, including notice and opportunity to be heard. Additionally, individual circumstances, acceptable evidence of rehabilitation activities and the potential impact on

safety of other residents should be taken into account in the decision as in DHC's admission policy and grievance procedures for applicants pending admission to the program.

(b) DHC will consider acceptable evidence of rehabilitation activities such as steady employment, steady-school attendance and passing grades, completion of a restorative justice program, completion of anger management, letters of support from community groups, or participation in or proof of completion of educational or vocational programs.

(c) Should the applicant forgo the opportunity to present additional information during further review, DHC will make its admission decision absent any additional information.

Applicants with criminal convictions that do not fall into one of the below categories and time periods will be deemed admissible, assuming he or she is otherwise eligible for housing assistance.

When reviewing the criminal history of applicants, DHC will use the following chart in determining whether an applicant's ineligibility, based upon criminal history.

CHART OF OFFENSES – DENIAL OF ADMISSION

#	TYPE	CRIME CATEGORY	SUB-CATEGORY	TIME PERIOD FOR REVIEW
1	**Mandatory HUD Denial**	Lifetime sex offender registration. Production or manufacture of methamphetamine **on the premises of federally assisted housing.**	Felony, Misdemeanor	**Mandatory HUD Denial** Review for confirmation of accuracy*
2	Crimes Against Persons	Criminal forcible sexual conduct (child molestation, child sexual abuse, child pornography); Terrorism; Homicide, murder, manslaughter; Use of a firearm against a person; Armed robbery offenses; Kidnapping/Abduction/Human Trafficking.	Felony	5 years from date of conviction
3		Assault and battery; non-forcible sex offenses. stalking; domestic violence	Felony, Misdemeanor	Review if **felony is within 5 years from the date of conviction** and **misdemeanor is within 3 years from the date of conviction**
4	Crimes Against Society	Possession or sale of illegal firearms	Felony, Misdemeanor	Review if **felony is within 5 years from the date of conviction** and **misdemeanor is within 3 years from the date of conviction**
5		Burglary Breaking and Entering Robbery Offenses	Felony, Misdemeanor	Review if **felony is within 5 years from the date of conviction** and **misdemeanor is within 3 years from the date of conviction**
6		Any household member has ever been convicted of drug-related criminal activity. Possession with intent to manufacture, sell, distribute, or use the drug. Criminal activity that shows a pattern or history of abuse of alcohol, illegal or prescription drugs and narcotics	Felony, Misdemeanor	Review if use is within six (6) months otherwise, Review if **felony is within 5 years from the date of conviction and misdemeanor is within 3 years from the date of conviction**
7	Crimes Against Property	Theft; Stolen Property; Fraud Related Offenses Destruction of Property, Vandalism, Arson	Felony	Review if felony is within 5 years from the date of conviction
8	Multiple Offenses	2,3,4,5,6,7	If two or more convictions	Review if two or more convictions are within the previous 10 years

*Unless a person can demonstrate that his/her record is incorrect (e.g., the person was never convicted of the manufacture of methamphetamine or is not subject to lifetime registration requirements, as applicable), mitigating factors will not be considered for a

person whose records indicate this offense. A household with a member whose record indicates an offense with an asterisk ("*") may only be allowed to remain a PH program applicant if the member whose record indicates the offense, is no longer a member of the household.

If an applicant has one offense of a Class C misdemeanor within the past year, DHC will not deny the applicant.

A Class C misdemeanor in Michigan is a minor criminal offense that can result in a fine and sometimes jail time.

Examples include but are not limited to:

- Traffic violations, such as speeding, changing lanes without signaling, or not following signs
- Petty crimes, such as minor possession of alcohol or tobacco
- Small-scale property theft
- Public intoxication
- Disorderly conduct
- Trespassing

In making its decision to deny admission, DHC will consider the factors discussed in Sections 3-III.C and 3-III.D. Upon consideration of such factors, DHC may, on a case-by-case basis, decide not to deny admission.

DHC will not deny an application solely on the basis of an arrest. If DHC receives arrest information which may be for a disqualifying activity, DHC may request additional information. Additional information that may be considered, if available, include the following:

1. The police report associated with the arrest which provides the reported circumstances of the arrest.
2. Any statements made by witnesses, or the applicant not included in the police report
3. Whether criminal charges were filed
4. Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
5. Any other evidence relevant to determining whether or not the applicant engaged in the disqualifying activity. Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

HUD authorizes DHC to request and obtain information from drug abuse treatment facilities concerning applicants. Specifically, the DHC may require each applicant to submit for all household members who are at least 18 years of age, and for each family head, spouse, or cohead regardless of age, one or more consent forms signed by such household members that requests any drug abuse treatment facility to inform the PHA whether the drug abuse treatment facility has reasonable cause to believe that the household member is currently engaging in illegal drug use.

Drug Abuse Treatment Facility means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use and is either an identified unit within a general care facility or an entity other than a general medical care facility.

Currently engaging in illegal use of a drug means illegal use of a drug that occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use must expire automatically after the DHC has made a final decision to either approve or deny the admission of such person.

Any charges incurred by the DHC for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant.

If the DHC chooses to obtain such information from drug abuse treatment facilities, it must adopt and implement one of the two following policies:

Policy A: The DHC must submit a request for information to a drug abuse treatment facility for all families before they are admitted. The request must be submitted for each proposed household member who is at least 18 years of age, and for each family head, spouse, or co-head regardless of age.

Policy B: The DHC must submit a request for information only for certain household members, whose criminal record indicates prior arrests or conviction for any criminal activity that may be a sole basis for denial of admission or whose prior tenancy records indicate that the proposed household member engaged in destruction of property or violent activity against another person, or they interfered with the right of peaceful enjoyment of the premises of other residents.

If the DHC chooses to obtain such information, it must abide by the HUD requirements for records management and confidentiality as described in 24 CFR 960.205(f).

PHA Policy

The PHA will obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when the DHC has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program.

Previous Behavior [960.203(c) and (d) and PH Occ GB, p. 48]

HUD authorizes DHC to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy. DHC conducts screening for family behavior and suitability for tenancy. In doing so, DHC may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants. DHC complies with all Fair Housing laws.

In the event of the receipt of unfavorable information with respect to an applicant, the DHC must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, DHC may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

PHA Policy

The DHC will deny admission to an applicant family if the DHC determines that the family:

1. Has a pattern of unsuitable past performance in meeting financial obligations, including rent, within the past three (3) years.
2. Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past three (3) years which may adversely affect the health, safety, or welfare of other residents.
3. Has a pattern of eviction from housing or termination from residential programs within the past three (3) years (considering relevant circumstances).
4. Owes rent or other amounts to DHC or any other PHA or owner in connection with any assisted housing program. Former Public Housing residents or HCV participants must either pay debt amounts in full or be current in an approved repayment agreement before admitted to DHC. Evidence of the approved repayment agreement must be provided to DHC.
5. Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent.

6. Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program in the last three years.
7. Owes rent or other amounts to any PHA in connection with Section 8, public housing, or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.

   When denying admission due to family debts as shown in HUD's EIV system, the DHC will provide the family with a copy of the EIV Debt Owed to PHA and Termination report.

   If the family wishes to dispute the information in the report, the family must contact the PHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to the DHC to support the family's claim. The DHC will consider the information provided by the family prior to issuing a notice of denial.

8. Has engaged in or threatened violent or abusive behavior toward DHC personnel.

   Abusive or violent behavior towards DHC personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

   Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

9. For the purpose of providing a housing opportunity to as many applicants as possible, 12 months should elapse before an applicant is preliminarily eligible to reapply for the same program they have just moved out of. An applicant is deemed preliminarily ineligible and shall be rejected if applying for the same program for which they have already been denied admissions due to criminal history or derogatory rental history, unreported income, or fraud within a 12-month period. The applicant will not be eligible to request an informal review of this rejection, provided that the applicant was offered an informal review when they were initially denied admissions for criminal history and/or derogatory rental history. Twelve months should elapse from the date of denial or date of the hearing decision, whichever is later.

In making its decision to deny admission, the DHC will consider the factors discussed in Sections 3-III.F and 3-III.G. Upon consideration of such factors, the DHC may, on a case-by-case basis, decide not to deny admission.

The DHC will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.E. SCREENING FOR SUITABILITY

Screening for Suitability as a Tenant [24 CFR 960.203(c)]

DHC is responsible for the screening and selection of families to occupy public housing units. DHC may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations

PHA Policy

DHC will consider the family's history with respect to the following factors:

1. Payment of rent and utilities
2. Caring for a unit and premises
3. Respecting the rights of other residents to the peaceful enjoyment of their housing
4. Criminal activity that is a threat to the health, safety, or property of others
5. Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C
6. Compliance with any other essential conditions of tenancy

Resources Used to Check Applicant Suitability [PH OCC GB, pp. 47-56]

PHAs have a variety of resources available to them for determination of the suitability of applicants. Generally, PHAs should reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

PHA Policy

In order to determine the suitability of applicants, DHC will examine applicant history for the past three (3) years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

DHC and landlord references for the past three (3) years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether DHC or another landlord ever began or completed lease termination for non-

payment, and whether utilities were ever disconnected in the unit. DHC and landlords will be asked if they would rent to the applicant family again.

Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in his/her name. (Use of this inquiry may be reserved for applicants applying for units where there are resident-paid utilities.)

If an applicant has no rental payment history, the DHC may check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Any of these circumstances may be grounds for an ineligibility determination; however, DHC will consider mitigating circumstances in making such determination.

DHC will not deny admission of an applicant solely because they were late with rent payments, fell behind on rent, or were evicted for nonpayment of rent due to the impacts of a pandemic of federally declared disaster.

Zero income Applicants with no rental payment history may be asked to provide DHC with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.

If previous landlords or the utility company do not respond to requests from DHC, the applicant may provide other documentation that demonstrates their ability to meet financial obligations, e.g. rent receipts, cancelled checks, etc.

DHC will verify via HUD's EIV System, in the Debts Owed to PHAs and Terminations Report, whether an applicant owes a debt to another public housing agency.

Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development.

DHC and landlord references for the past three (3) years, gathering information on whether the applicant kept a unit clean, safe, and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or development, and, if so, how much the repair of the damage cost; whether the applicant's

housekeeping caused insect, including bed bugs, or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past three (3) years may be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction. A record of arrest(s) will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying activity.

A personal reference may be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

Home visits may be used to determine the applicant's ability to care for the unit.

3-III.F. CRITERIA FOR DECIDING TO DENY ADMISSION

Evidence

HUD authorizes DHC to consider, at its discretion, all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B and Section 3-III.C). DHC will consider all credible evidence in making admission decisions.

PHA Policy

The DHC will use the preponderance of the evidence as the standard for making admission decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]

HUD authorizes the DHC to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B).

In the event DHC receives unfavorable information with respect to an applicant, it will give consideration to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, DHC may give consideration to factors which might indicate a reasonable probability of favorable future conduct. The final decision on whether to admit a family, however, who fails to meet DHC's eligibility requirements, lies within DHC's discretion.

PHA Policy

DHC will consider the following facts and circumstances prior to making its decision:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property.

The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act.

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.F) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

The length of time since the violation occurred (as discussed in 3-III.), including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future.

While a record of arrest(s) will not be used as the sole basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, DHC may obtain the police report associated with the arrest and consider the reported circumstances of the arrest.

- Any statements made by witnesses or the applicant not included in the police report.
- Whether criminal charges were filed;
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal.
- Any other evidence relevant to determining whether or not the applicant engaged in disqualifying criminal activity. If previously incarcerated, the length of time the culpable family member has been released into society. Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.
- If previously incarcerated, the length of time the culpable family member has been released into society.

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs.

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

The DHC will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application [24 CFR 960.203(c)(3)(i)]

Should DHC's screening process reveal that an applicant's household includes an individual subject to state lifetime sex offender registration, DHC must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, DHC must deny admission to the family [Notice PIH 2012-28].

For other criminal activity, DHC may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 960.203(c)(3)(i)].

PHA Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or stay as a guest in the public housing unit.

After admission to the program, the family must present evidence of the former family member's current address upon DHC request.

Reasonable Accommodation [PH Occ GB, pp. 58-60]

If the family includes a person with disabilities, DHC's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

PHA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, DHC will determine whether the behavior is related to the disability. If so, upon the family's request, DHC will determine whether alternative measures are appropriate

as a reasonable accommodation. DHC will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2 for a discussion of reasonable accommodation.

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND HUMAN TRAFFICKING

The Violence Against Women Act (VAWA) and the HUD regulations at 24 CFR 5.2005(b) prohibit PHA's from denying admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

Definitions of key terms used in VAWA are provided in section 16-VII of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

VAWA requires PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

PHA Policy

DHC acknowledges that a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking may have an unfavorable history (e.g., a poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under DHC's policies.

While DHC is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the applicant may inform DHC that their status as a victim is directly related to the grounds for the denial. DHC will request that the applicant provide enough information to DHC to allow DHC to

make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

DHC will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP, a notice of VAWA rights, and a copy of the HUD Form 5382. DHC will request in writing that an applicant wishing to claim this protection notify DHC within 14 business days of date of receipt of request for documentation.

Documentation

***Victim Documentation** [24 CFR 5.2007]*

PHA Policy

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, DHC will request, in writing, that the applicant provide documentation supporting the claim in accordance with section 16-VII.D of this ACOP.

Perpetrator Documentation

PHA Policy

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit.

Documentation that the perpetrator has successfully completed or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

3-III.H. NOTICE OF ELIGIBILITY OR DENIAL

DHC will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

If a PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

PHA Policy

If based on a criminal record or sex offender registration information an applicant family appears to be ineligible, DHC will notify the family in writing of the proposed denial and provide a copy of the record to the head of household and to the subject of the record. The head of household has 10 business days to dispute the accuracy and relevance of the information. If the head of household does not timely contact DHC to dispute the information, DHC will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter still has the opportunity to do so as part of the informal hearing process.

Notice requirements related to denying admission to non-citizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking are contained in Section 3-III.G.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions.

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

- (A)IN GENERAL – The term *developmental disability* means a severe, chronic disability of an individual that-

  (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

  (ii) is manifested before the individual attains age 22;

  (iii) is likely to continue indefinitely;

  (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) economic self-sufficiency; and

  (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

  (B)INFANTS AND YOUNG CHILDREN – An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses

(i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes their ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) Is regarded as having an impairment means:

(a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation
(b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment
(c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment.

CHAPTER 4: APPLICATIONS, WAITING LIST AND RESIDENT SELECTION

INTRODUCTION

When a family wishes to reside in public housing, the family must submit an application that provides the DHC with the information needed to determine the family's eligibility. HUD requires the DHC to place all eligible families that apply for public housing on a waiting list. When a unit becomes available, the DHC must select families from the waiting list in accordance with HUD requirements and DHC policies as stated in its Admissions and Continued Occupancy Policy (ACOP) and its annual plan.

The DHC is required to adopt a clear approach to accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow this approach consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA to receive preferential treatment.

HUD regulations require that the DHC comply with all equal opportunity requirements, and it must affirmatively further fair housing goals in the administration of the program [24 CFR 960.103, PH Occ GB p. 13]. Adherence to the selection policies described in this chapter ensures that the DHC will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and DHC policies for accepting applications, managing the waiting list, and selecting families from the waiting list. DHCs policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 comprise DHC's Tenant Selection and Assignment Plan (TSAP).

The policies outlined in this chapter are organized into three sections, as follows:

Part I: The Application Process. This part provides an overview of the application process, and discusses how applicants can obtain and submit applications. It also specifies how DHC will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how DHC's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for public housing. It also discusses the process DHC will use to keep the waiting list current.

Part III: Tenant Selection. This part describes the policies that guide DHC in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that DHC has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide DHC's efforts to provide accessibility to preliminary and final applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes DHC's obligation to ensure the accessibility of the application process.

4-I.B. APPLYING FOR ASSISTANCE

APPLYING FOR ASSISTANCE THROUGH DHC'S DIGITAL APPLICATION PORTAL

Any family that wishes to reside in public housing, during a period in which an LIPH program's site-based waitlist is open to the general public, must apply for admission to the program. [24 CFR 1.4(b)(2)(ii), 24 CFR 960.202(a)(2)(iv), and PH Occ GB, p. 68]. HUD permits the DHC to determine the format and content of its applications, as well how such applications will be made available to interested families and how applications will be accepted by the DHC. However, the DHC must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA's application [Notice PIH 2009-36].

PHA Policy

Depending upon the length of time between the date of application and the availability of housing, the PHA may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within 60 days of the date of application. At application, the family must provide all information necessary to establish family eligibility and the amount of rent the family will pay.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least 60 days from the date of application. Under the two-step application process, the PHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all information necessary to establish family eligibility and the amount of rent the family will pay when selected from the waiting list.

Families who wish to apply for any of DHC's programs must complete a preliminary application (pre-application) when the waiting list is open. Waitlist pre-applications are digital and are available online at www.dhcmi.org. Pre-applications will not require interviews. Information on

the pre-application will not be verified until the pre-applicant has been selected from the waitlist for final eligibility determination.

Final eligibility will be determined when the full and final application process is completed, and all information is verified.

Pre-applications are available on DHC's application portal. Once a family is selected from a waitlist and notified of the selection, a final application must be completed and returned. Final applications must be returned to DHC online, by mail, by fax, or submitted in person during normal business hours. DHC may accept applications via e-mail.

Final applications must be filled out completely in order to be accepted for processing by DHC. If an application is incomplete, DHC will notify the family of the additional information required, and the deadline by which the additional information must be provided.

At the time of final eligibility determination interviews, all adults listed on the final application are required to provide proof of legal identity, to complete a HUD form 9886-A (Authorization for Release of Information/Privacy Act Notice), and to complete a Declaration of Section 214 Citizenship Status form.

FAMILIES WITH PREFERNCES APPLYING FOR ASSISTANCE ONCE GENERAL SITE-BASED WAITLISTS AND DIGITAL APPLICATION PORTAL HAVE CLOSED

Any family that wishes to reside in public housing must apply for admission to the program.

During the period when DHC's digital application portal and site-based waitlists are closed to the general public, families who are eligible to apply for assistance, based on preferences that remain open year-round as outlined in Chapter 4-III.B, are required to follow DHC's two-step application process.

DHC's two-step application process for eligible families who certify to local and centralized preferences, outlined in Chapter 4-III.B, require families to submit a preliminary application and only the information needed to complete an initial assessment of the family's eligibility and certify the applicant's preference, in order to determine the family's placement on a waiting list. *Upon being selected from a site-based waitlist*, the family will be required to provide a final application and all of the information necessary to establish family program eligibility and the amount of rent the family will pay when selected from the waiting list.

Families may obtain preliminary application forms from DHC's offices. Families may also request – by telephone, mail, or by email – that a form be sent to the family. Submission of digital applications will not be available when general site-based waitlists are closed.

Completed preliminary applications must be returned to DHC's central office located at 1301 E. Jefferson Ave, Detroit MI 48207, by mail, by fax, or submitted in person during normal business hours. DHC may accept applications via e-mail.

Applications must be complete in order to be accepted for processing by DHC. If an application is incomplete, DHC will notify the family of the additional information required, and the deadline by which the additional information must be provided.

At the time of in-person interviews, and regardless of whether the family is in step-one or step-two of the application process, DHC requires all adults listed on the application to provide proof of legal identity, to complete HUD form 9886-A (Authorization for Release of Information/Privacy Act Notice), and to complete a Declaration of Section 214. During the period when DHC's general site-based waitlists are closed, DHC will confirm all preferences at the time of the preliminary application in-take, for families who are eligible to apply to site-based waitlists year-round, based on preferences outlined in Chapters 4-III.B.

Citizenship Status forms will be required at time of pre-application. If this is not possible, then the family will be asked to provide this information at time of the eligibility orientation, provided the family has been deemed eligible to be placed on the waiting list.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

The DHC must take a variety of steps to ensure that the application process is accessible to those people who might have difficulty complying with the standard application process.

Disabled Populations [24 CFR 8; PH Occ GB, p. 68]

DHC will provide reasonable accommodation for the needs of individuals with disabilities to make the application process fully accessible. DHC will provide an alternate approach that provides equal access to the application process. Chapter 2 provides a full discussion of DHC's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

DHC is required to take reasonable steps to ensure meaningful access to its programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides DHC's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

The DHC must review each completed application received and make a preliminary assessment of the family's eligibility. Applicants for whom the waiting list is open must be placed on the waiting list unless the DHC determines the family to be ineligible. Where the family is determined to be ineligible, the DHC will notify the family in writing [24 CFR 960.208(a); PH Occ GB, p. 41].

No applicant has a right or entitlement to be listed on a waiting list, or to any particular position on a waiting list.

Ineligible for Placement on the Waiting List

PHA Policy

DHC will send written notification of the preliminary eligibility determination within 15 business days of receiving a completed application when placement on the waiting list does not indicate that the family is, in fact, eligible for admission. A final determination of eligibility and qualification for preferences will be made when the family is selected from the waiting list. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal hearing and explain the process for doing so (see Chapter 14).

Eligible for Placement on the Waiting List

PHA Policy

Applicants will be placed on the waiting list according to DHC preference(s) and the date and time. DHC will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5).

Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to DHC standards and local codes). However, in these cases, the family must agree not to request a transfer for two (2) years after admission, unless they have a change in family size or composition.

Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. When the family is selected from the waiting list, the PHA will verify any preference(s) claimed and determine eligibility and suitability for admission to the program.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

DHC has policies regarding the type of waiting list it will utilize as well as the various aspects of organizing and managing the waiting list of applicant families. This policy includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

4-II.B. ORGANIZATION OF THE WAITING LIST

PHA Policy

The waiting list will contain the following information for each applicant family listed:

- Name and social security number of head of household.
- Unit size required (number of family members)
- Amount and source of annual income
- Accessibility requirements, if any.
- Date and time of application or application number
- Household type (family, elderly, disabled)
- Admission preference, if any.
- Race and ethnicity of the head of household and
- The specific site(s) waiting list the applicant wishes to reside.

DHC does not restrict the number of waiting lists a family can be on. Applicants are free to apply to any open waiting lists at DHC developments. However, once a family is selected from any waitlist and admitted within the previous 12-month period, to any low-income public housing, tenant-based voucher, project-based voucher, or affordable rent housing program administered by the DHC, the family will be removed from all other DHC lowincome public housing waitlists.

PHA Policy

DHC will not merge the public housing waiting lists with the waiting lists for any other program DHC operates. When there are insufficient applicants on a site-based waiting list, DHC may contact applicants on the other site-based waiting lists who may qualify for the type of housing with insufficient applicants.

"*Insufficient applicants*" on a list will be defined as not enough families to fill vacancies for at least 6-12 months based on anticipated turnover at the development.

DHC shall post on its website (www.dhcmi.org) all open waiting lists.

4-II.C. OPENING AND CLOSING THE WAITING LIST

Closing the Waiting List

PHA Policy

DHC may close a waiting list when the estimated waiting period for housing applicants on the list reaches 24 months-36 months for the most current applicants. Where DHC has particular preferences or other criteria that require a specific category of family, DHC may elect to continue to accept applications from those applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list has been closed, it may be reopened at any time. The DHC will publish a notice announcing the opening of the waiting list in local newspapers of general circulation, minority media, and other suitable media outlets. Such notice will comply with HUD fair housing requirements. The DHC will specify who may apply, and where and when applications will be received.

DHC Policy

DHC will announce the reopening of a waiting list at least 3 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The notice will specify where, when, and how applications will be received. The notice will inform applicants of the date and time applications will be accepted, a point of contact who can answer questions, any limitations on who may apply, and any other information the applicant may need to successfully submit the application.

DHC will give public notice by publishing the relevant information in suitable media outlets at one or more, but not limited to, the following:

- Michigan Citizen Michigan Chronicle
- Metro Times
- Detroit News/ Free Press
- Various Social Media Platforms

To ensure the public notice broadly reaches potential applicants in all communities throughout the housing market area, the DHC will distribute public notice to local community-based organizations, such as social service agencies and religious institutions and distribute the notice online through the DHC's website or social media platforms. Notices may also be sent to organizations that typically assist low-income families.

4-II.D. FAMILY OUTREACH [24 CFR 903.2(D); 24 CFR 903.7(A) AND (B)

DHC will conduct outreach, as necessary, to ensure that DHC has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that DHC is affirmatively furthering fair housing and complying with the Fair Housing Act.

Because HUD requires DHC to serve a specified percentage of extremely low-income families, DHC may need to conduct special outreach to ensure that an adequate number of such families apply for public housing.

DHC's outreach efforts must comply with fair housing requirements. This includes:

(1) Analyzing the housing market area and the populations currently being served to identify underserved populations.

(2) Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program.

(3) Avoiding outreach efforts that prefer or exclude people who are members of a protected class.

DHC's outreach efforts must be designed to inform qualified families about the availability of units under the program. These efforts may include, as needed, any of the following activities:

(1) Submitting press releases to local newspapers, including minority newspapers.

(2) Developing informational materials and flyers to distribute to other agencies.

(3) Providing application forms to other public and private agencies that serve the low-income population.

(4) Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities.

PHA Policy

The DHC will monitor the characteristics of the population being served and the characteristics of the population as a whole in the DHC's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

PHA Policy

While the family is on the waiting list, the family must inform DHC, within 10 business days of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing or electronically via DHC's digital portal for residents.

Changes in an applicant's circumstances while on a waiting list may affect the family's qualification for a particular bedroom size or entitlement. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

4-II.F. UPDATING THE WAITING LIST

HUD requires DHC to establish policies to use when removing applicant names from the waiting list [24 CFR 960.202(a)(2)(iv)].

Purging the Waiting List

The decision to remove an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to the DHC's request for information or updates because of the family member's disability, the DHC must, upon the family's request, reinstate the applicant family to their former position on the waiting list as a reasonable accommodation [24 CFR 8.4(a), 24 CFR 100.204(a), and PH Occ GB, p. 39 and 40]. See Chapter 2 for further information regarding reasonable accommodations.

PHA Policy

The waiting list will be updated periodically to ensure that all applicant information is current and timely.

To update the waiting list, DHC will send an update request to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. If the

family provided an e-mail address, this update request will be sent to the email address that DHC has on record for the family. If no email address was provided by the family, the update request will be sent to the last mailing address that DHC has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, electronic mail or by fax. Responses should be postmarked or received by DHC not later than 10 business days from the date of DHC's letter.

If the family fails to respond within 10 business days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 10 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.

When a family is removed from the waiting list during the update process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent DHC from making an eligibility determination; therefore, no informal hearing is required.

If a family is removed from the waiting list for failure to respond, the Executive Director, or designee, may reinstate the family if s/he determines the lack of response was due to DHC error, or to circumstances beyond the family's control, as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including an adverse factor resulting from such abuse.

Removal from the Waiting List

PHA Policy

DHC will remove an applicant from the waiting list if they have requested that their name be removed. In such cases no informal hearing is required.

If DHC determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on a waiting list, the family will be removed from the waiting list.

If a family is removed from a waiting list because DHC has determined the family is not eligible for admission, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal hearing (see Chapter 14) [24 CFR 960.208(a)].

PART III: RESIDENT SELECTION

4-III.A. OVERVIEW

DHC must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. DHC must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. DHC must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status, gender identity or expression, sexual orientation, age, height, weight, marital status or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

The order in which families will be selected from the waiting list depends on the selection method chosen by DHC and is impacted in part by any selection preferences that the family qualifies for. The availability of units also may affect the order in which families are selected from the waiting list.

DHC must maintain a clear record of all information required to verify that the family is selected from the waiting list according to DHC's selection policies [24 CFR 960.206(e)(2)]. DHC's policies must be posted any place where DHC receives applications. DHC must provide a copy of its tenant selection policies upon request to any applicant or tenant. DHC may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

PHA Policy

When an applicant or resident family requests a copy of DHC's tenant selection policies, DHC will provide copies to them free of charge.

4-III.B. SELECTION METHOD

Local Preferences [24 CFR 960.206]

DHC is permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD

also permits DHC to establish other local preferences, at its discretion. Any local preference established must be consistent with the PHA Plan and the consolidated plan must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

PHA Policy

Eligible applicants shall be offered a dwelling unit based on the date and time of application, after taking into consideration the size of the unit and, if applicable, the appropriate local preference. For purposes of establishing priority, applicants, and families involuntarily displaced, because of a federally declared disaster or DHC's action involving rehabilitation, demolition, or other disposition of dwelling units, will receive priority over all other local preference.

DHC will use the following local preferences on each of its public housing site-based waiting lists:

Families Displaced by Federally Declared Disaster: DHC will establish a preference for families displaced by a federally declared disaster occurring within twelve (12) months of the incident, for any period after July 1, 2005. This preference takes priority over all other local DHC preferences.

In administering this preference, displaced families from other public housing authorities, whether the family is a displaced public housing or voucher participant, shall have preference over displaced families who are not public housing or voucher participants. The preference does not guarantee eligibility for admission to the public housing program for displaced families that are not from another public housing authority. This preference takes priority over all other local DHC preferences. An applicant which certifies to this preference may apply for placement on any DHC site-based wait list. The waitlists will remain open for this preference.

Homeless Families: A local preference is available for families that are certified as homeless by a partnering agency AND have been selected by DHC from the Centralized Homeless Waitlist. The preference does not guarantee eligibility for admission to the public housing program. DHC will provide housing assistance for up to one hundred (100) new admissions per year, to homeless families who are referred for assistance through formal agreements with partnering organizations. All families assisted under this preference must:

1) Apply to DHC's centralized waitlist and in order to claim this preference, AND

2) Must be referred to DHC by an organization with which DHC has a formal partnering agreement or be referred by DHC's Director of Resident Services.

3) Apply for placement on at least one of DHC's site-based waitlists. Site-based eligibility requirements are applicable.

4) Have agency certified referrals within 120 days of admission to the waitlist and within 120 days of admission to the program.

DHC will only accept referrals from an agency, organization, or consortia with which DHC has a formal agreement. These agreements must be signed by DHC's Executive Director. The terms and conditions of the agreements will be based upon the population to be served. DHC has the right to limit the number of partner agencies, organizations, and consortia to ensure administrative efficiency. DHC will not accept referrals from an agency, organization or consortia that deny its services to members of any federally protected class under fair housing laws.

The applicant must certify their homeless status at the time of selection from the centralized waitlist. If the applicant's homeless status changes and the family is no longer considered homeless, the applicant must notify DHC in writing and the family will be removed from the centralized waitlist. The applicant may remain on the site-based waitlist but will be subject to the site's selection process and local preferences noted in this chapter.

An applicant that certifies to this preference on the centralized waitlist, will have a priority greater than all the other local preferences except, "Families Displaced by Federally Declared Disaster", which takes a higher priority. Once an applicant is selected from the centralized waitlist, the homeless preference will be applied to the applicant's placement on the site-based waitlist(s) of which the applicant has applied.

An applicant that certifies to this preference on the centralized waitlist may apply to placement on any DHC site-based waitlist. Homeless families may choose to apply for placement on any of DHC's site-based waitlists without applying for placement on the centralized waitlist. However, the site-based waitlist selection order is based on the site-based local preferences noted in this chapter.

The centralized waitlist will remain open for this preference and families referred to the centralized waitlist may also apply for placement on the site-based waitlist, as long as the centralized waitlist remains open to this preference.

DHC may close the waiting list when the estimated waiting period for housing applicants on the centralized waitlist reaches 12 months to 18 months for the most current applicants.

Once a family is selected from any waitlist and admitted to the program, the family will be removed from all other waitlists.

Elderly Families: Families in which the head of household, spouse or co-head are age 62 or older are eligible for the Elderly preference. An applicant that certifies to this preference may apply to placement on any DHC site-based waitlist, with priority greater than the general public and equal to all other local preferences except "Families Displaced by Federally Declared Disaster" and "Homeless" applicants

selected from DHC's Centralized Waitlist, which all have a higher priority. The waitlists placement for families who identify and certify to this preference, will remain open year-round.

Local Preference Related to VAWA Victims: A local preference is available for families that include victims of domestic violence, dating violence, sexual assault, or stalking. The preference does not guarantee eligibility for admission to the public housing program. All families assisted under this preference must

1) apply with and be referred to DHC by an organization with which DHC has a formal partnering agreement, or 2) be referred by DHC's Director of Resident Services.

All families must provide documentation of VAWA victim status. During the application process the applicant must certify that the abuser will not reside with the applicant without DHC's prior, written approval.

DHC will only accept referrals from an agency, organization, or consortia with which DHC has a formal agreement. These agreements must be signed by DHC's Executive Director. The terms and conditions of the agreements will be based upon the population to be served. DHC has the right to limit the number of partner agencies, organizations, and consortia to ensure administrative efficiency. DHC will not accept referrals from an agency, organization or consortia that deny its services to members of any federally protected class under fair housing laws. An applicant eligible for this preference may apply for placement on DHC's site-based waitlist. The site-based waitlist will remain open for this preference. An applicant that certifies to this preference may apply to placement on any DHC site-based waitlist, with priority greater than the general public and equal to all other local preferences except "Families Displaced by Federally Declared Disaster", "Elderly Families" and "Homeless" applicants selected from DHC's Centralized Waitlist, which all have a higher priority. The waitlists for applicants with this preference will remain open year-round.

Income Targeting [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40 percent of the families admitted to public housing during the DHC's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher [*Federal Register* notice 6/25/14]. To ensure this requirement is met, the DHC may skip non-ELI families on the waiting list in order to select an ELI family.

If the DHC also operates a housing choice voucher (HCV) program, admissions of extremely low-income families to the DHC's HCV program during a PHA fiscal year that exceed the 75 percent minimum target requirement for the voucher program, shall be credited against the PHA's basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances the fiscal year

credit to the public housing program must not exceed the lower of: (1) ten percent of public housing waiting list admissions during the PHA fiscal year; (2) ten percent of waiting list admissions to the PHA's housing choice voucher program during the PHA fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of DHC's public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

PHA Policy

DHC will monitor its admissions to ensure that at least 40 percent of families admitted to public housing in each fiscal year are extremely low income (ELI) families.

ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher.

Once DHC has met the 40% targeted income requirement for new admissions of extremely low-income families, DHC will fill the remainder of its new admission units with families whose incomes do not exceed 80% of the HUD approved area median income.

Mixed Population Developments [24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the DHC at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102].

At this time DHC does not operate or anticipate operating a "mixed population" development.

Units Designated for Elderly or Disabled Families [24 CFR 945]

DHC does not have designated disabled housing at this time. DHC operates "Senior Only" developments as described in DHC's approved Designated Housing Plan.

Units Designed for the Disabled

DHC has units designed specifically for persons with mobility, sight, and hearing impairments (referred to as accessible units). Preference for occupancy of these units will be given to families with disabled family members who require the modifications or facilities provided in the accessible units.

General Occupancy Units

General occupancy units are designed to house all populations of eligible families. In accordance with DHC's occupancy standards, eligible families not needing accessible units will be admitted to DHC's general occupancy units. DHC will treat all single applicants who are not elderly or disabled as they would any other family for admission purposes.

4-III.C. DECONCENTRATION OF POVERTY AND INCOME-MIXING [24 CFR 903.1 AND 903.2]

Steps for Implementation

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, DHC must comply with the following steps:

Deconcentration of Poverty and Income-Mixing

DHC's admission policy is designed to provide for deconcentration of poverty and income-mixing by bringing higher income residents into lower income developments and lower income residents into higher income developments, where possible. Gross annual income is used for income limits at admission and for income-mixing purposes.

Deconcentration Methodology

DHC shall admit lower income families to higher income developments and admit higher income families to lower income developments using the following steps:

Step 1: DHC will annually determine the average income of all families residing in all general occupancy (family) developments including families residing in developments approved for demolition or conversion to resident-based assistance and families residing in public housing units in mixed-finance developments.

Step 2: DHC will annually determine the average income of all families residing in each building of each general occupancy development.

Step 3: DHC will annually characterize each building of each general occupancy development as higher income or lower income based on whether the average income in the building is above or below the overall average.

Step 4: DHC will determine which families on the waiting list have incomes higher than the DHC-wide average and designate these families "higher income families," and which have incomes lower than the DHC-wide average and designate these families "lower income families."

Step 5: When a unit becomes available in a higher income building, DHC shall skip families on the waiting list if necessary to reach a lower income family to whom it will offer the unit. When a unit becomes available in a lower income building, DHC shall skip families on the waiting list if necessary to reach a higher income family to whom it will offer the unit. Skipping shall be applied to the site-based waiting lists. If a waiting list does not contain a family in the income category to which the unit is to be offered, DHC shall offer the unit to a family in the other income category.

Definition of Building for Purposes of Deconcentration

For purposes of deconcentration, a "building" is one or more contiguous structures containing at least 8 public housing units. For scattered sites and small developments, if a development contains no structures that qualify as a building, the deconcentration requirement is applied to the entire development as if the development were a building. If DHC has provided the family that resided in public housing on the site of a mixed finance or other development the right to return to that development after revitalization, the deconcentration policy is inapplicable to that family. A family has the sole discretion whether to accept an offer of a unit made under the deconcentration policy. DHC shall not take any adverse action toward any eligible family for choosing not to accept an offer of a unit.

DHC shall uniformly limit the number of offers received by applicants. Nothing in the deconcentration policy relieves DHC of the obligation to meet the income targeting requirements.

DHC Incentives for Higher Income Families

DHC may offer certain incentives to higher income families willing to move into lower income developments.

Order of Selection [24 CFR 960.206(e)]

Families will be selected from the waiting list based on preference. Among applicants with preferences, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by DHC, and the ranking of their preference as defined in this policy.

When selecting applicants from the waiting list, DHC will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. DHC will offer the unit to the highest-ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

Factors such as deconcentration or income-mixing and income targeting will also be considered in accordance with HUD requirements and DHC policy.

4-III.D. NOTIFICATION OF SELECTION

PHA Policy

DHC will notify the family when they are selected from the waiting list. The notice will inform the family of the following [24 CFR 960.208]:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview
- Who is required to attend the interview
- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation
- Documents that must be provided at the interview to document eligibility for a preference, if applicable
- Other documents and information that should be brought to the interview

If a notification letter is returned to DHC with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents DHC from making an eligibility determination; therefore, no informal hearing will be offered.

4-III.E. THE APPLICATION INTERVIEW

PHA Policy

Families selected from the waiting list are required to participate in an in-person eligibility interview.

The head of household and the spouse/co-head will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/co-head may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to DHC.

The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required

documentation, the appointment may be rescheduled until the proper documents have been obtained.

Pending disclosure and documentation of social security numbers (SSN), DHC will allow the family to retain its place on the waiting list for six (6) months. If all household members have not disclosed their SSNs by the next time a unit becomes available, DHC will offer a unit to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for the preference (see Chapter 7). If the family is verified as eligible for the preference, DHC will proceed with the interview. If DHC determines the family is not eligible for the preference, the interview will not proceed, and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit required documentation. If any materials are missing, DHC will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible non-citizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3).

An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, DHC will provide translation services in accordance with DHC's LEP plan, if any.

If the family is unable to attend a scheduled interview, the family should contact DHC in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, DHC will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without DHC approval will have their applications made inactive based on the family's failure to supply information needed to determine

eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested, and their application will be made inactive. Such failure to act on the part of the applicant prevents DHC from making an eligibility determination; therefore, DHC will not offer an informal hearing.

4-III.F. FINAL ELIGIBILITY DETERMINATION

The DHC must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including suitability standards, the DHC must make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

PHA Policy

If DHC determines that the family is ineligible, DHC will send written notification of the ineligibility determination within 15 business days of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal hearing (see Chapter 14).

If DHC uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial , a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before DHC can move to deny the application. See Section 3-III.G for DHC's policy regarding such circumstances.

DHC must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence Against Women Act, and as outlined in 16-VII.C, at the time the applicant is provided assistance or at the time the applicant is denied assistance. The notice and self-certification form must accompany the written notification of eligibility determination. This notice must be provided in both of the following instances: (1) when a family actually begins receiving assistance (lease execution); or (2) when a family is notified of its ineligibility.

CHAPTER 5: OCCUPANCY STANDARDS AND UNIT OFFERS INTRODUCTION

INTRODUCTION

DHC must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. DHC's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise DHC Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

Part I: Occupancy Standards. This part contains DHC's standards for determining the appropriate unit size for families of different sizes and types.

Part II: Unit Offers. This part contains DHC's policies for making unit offers and describes actions to be taken when unit offers are refused.

PART I: OCCUPANCY STANDARDS

5-I.A. OVERVIEW

Occupancy standards are established by DHC to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from underutilization or from excessive wear and tear due to overcrowding. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors DHC will use to determine the size unit for which a family qualifies and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, DHC may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. DHC is permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

Although DHC does determine the size of unit the family qualifies for under the occupancy standards, the DHC does not determine who shares a bedroom/sleeping room.

DHC's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

PHA Policy

DHC will use the same occupancy standards for each of its developments.

DHC's occupancy standards are as follows:

DHC will assign one bedroom for each two persons within the household, except in the following circumstances:

1. Persons of different generations will not be required to share a bedroom. Children shall generally not be required to share a bedroom with an adult except:
    a. A single pregnant woman with no other household members and a single parent with one child and no other household members will be assigned a one-bedroom

unit. Assuming no other changes in family composition, after the child reaches the age of 3 years, the family will be eligible for a transfer to a 2-bedroom unit.

2. Otherwise, an unborn child will not be counted as a person in determining unit size.
3. Live-in aides may be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.
4. Single person families will be allocated a zero or one bedroom.
5. A head of household (leaseholder) who is married or has a cohabitating partner, will be allocated one bedroom.
6. Persons of the opposite sex (other than spouses and cohabitating partners), will not be required to share a bedroom.
7. Foster children will be included in determining unit size only if they will be in the unit for more than 12 months.
8. A family member who will be absent most of time, such as a member who is away in the military, will not be considered in determining unit size.
9. Children over two (2) years old who are in the process of being adopted are considered Family members for the purpose of determining bedroom size but are not considered Family members for determining income limit. In determining unit size, DHC will count a child who is temporarily away from the home because the child has been placed in foster care.
10. Children away at school, but for whom the unit is considered the primary residence, and children temporarily placed outside the home, will be considered when determining unit size.

DHC will reference the following guidelines in determining the appropriate unit bedroom size for a family:

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	2
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10
6	6	12

The living room will not be used as a bedroom except with written DHC approval. Basements can never be used as living space.

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

PHA Policy

DHC will consider granting exceptions to the occupancy standards at the family's request if DHC determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5I.B) and the family does not want to transfer to a larger size unit.

When evaluating exception requests, DHC will consider the size and configuration of the unit. In no case will DHC grant an exception that is in violation of local housing or occupancy codes, regulations, or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two (2) years from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, DHC may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

Processing of Exceptions

PHA Policy

All requests for exceptions to the occupancy standards must be submitted in writing which may include electronic submission.

In the case of a request for an exception as a reasonable accommodation, the DHC will encourage the resident to make the request in writing using a reasonable accommodation request form.

However, DHC will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

DHC will notify the family of its decision within 15 business days of receiving the family's request.

PART II: UNIT OFFERS [24 CFR 1.4(B)(2)(II); 24 CFR 960.208]

5-II.A. OVERVIEW

The DHC must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination laws.

In filling an actual or expected vacancy, the DHC must offer the dwelling unit to an applicant in the appropriate offer sequence. The DHC will offer the unit until it is accepted. This section describes DHC's policies with regard to the number of unit offers that will be made to applicants selected from a waiting list. This section also describes DHC's policies for offering units with accessibility features.

PHA Policy

DHC will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

5-II.B. NUMBER OF OFFERS

PHA Policy

DHC's plan for offering units to applicants is to make one-unit offer based on the applicant's position on the wait list.

When an applicant rejects the unit offer without good cause, DHC will remove the applicant's name from the wait list. Removal from the waiting list means the applicant must reapply for admission. In those cases, the applicant is not entitled to an informal review. If the applicant rejects the unit offer with good cause, the next available unit deemed suitable for the family will be offered. In these cases, the second unit offer will be the final offer. What constitutes good cause for a unit

rejection will be decided on a case- by-case basis and must be approved by the Director of Real Estate Management or designee.

5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL

PHA Policy

Applicants must accept or refuse a unit offer, in writing, within 3 business days of the date of the unit offer.

Offers made by telephone will be confirmed by letter or electronic submission such as email.

5-II.D. REFUSALS OF UNIT OFFERS

Good Cause for Unit Refusal

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the public housing waiting list [24 CFR 945.303(d)].

PHA Policy

Applicants may refuse to accept a unit offer for "good cause." *Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc. [PH Occ GB, p. 104]. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to DHC's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to DHC's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members, as listed on final application, or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint, and the family includes children under the age of six.

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list. The applicant will remain on the wait list but will be re-sequenced. When the applicant again reaches the top of the wait list, the second unit offer will be made.

DHC will require documentation of good cause for unit refusals.

Unit Refusal without Good Cause

PHA Policy

When an applicant rejects the second and final unit offer with or without good cause, DHC will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of its right to request an informal review and the process for doing so (see Chapter 14).

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until DHC opens the waiting list.

5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]

PHAs must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities, and take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of a particular unit.

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant DHC must offer such units:

- First, to a current resident of another unit of the same development, or other public housing development under DHC's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists, then

- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, the DHC may require the applicant to agree to move to a non-accessible unit when available.

PHA Policy

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, DHC will offer the unit to a nondisabled applicant.

When offering an accessible unit to a non-disabled applicant, DHC will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

5-II.F. DESIGNATED HOUSING

DHC's policies for offering units designated for elderly families only are described in DHC's Designated Housing Plan.

CHAPTER 6.A.: INCOME AND RENT DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

INTRODUCTION

This chapter is applicable prior to the PHA's HOTMA 102/104 compliance date. After this date, the DHC will follow policies as outlined in Chapter 6.B. of this policy. See page 371 for Chapter 6B.

The program regulations in the current Code of Federal Regulations (CFRs) were updated for HOTMA on January 1, 2024. As a result, pre-HOTMA regulations from 2023 are no longer available on the electronic CFRs. However, since full HOTMA implementation is still pending, the pre-HOTMA regulations continue to apply to some elements of the program, and this chapter makes references to both pre-HOTMA and HOTMA regulations where applicable. Where HOTMA regulations apply, citations in this chapter have been provided indicating that current HOTMA CFRs are applicable. For all other citations, the pre-HOTMA CFRs apply. The federal government archives previous versions of the CFRs, and PHAs may access them here: https://www.govinfo.gov/app/collection/cfr/2023/title24.

A family's annual income is used to determine their income eligibility for the public housing program and is also used to calculate the amount of the family's rent payment. DHC will use the policies and methods described in this chapter to ensure that only income-eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD Regulations and DHC policies related to these topics in four parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income to include and excluded to arrive at a family's annual income. These requirements and DHC policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and PHA policies for calculating income from assets are found in Part II.

Part III: Adjusted Income. Once annual income has been established, HUD regulations require the DHC to subtract from annual income any of five mandatory deductions for which a family qualifies and allow the DHC to adopt additional permissive deductions. DHC policies for calculating adjusted income are found in Part III.

Part IV: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also, included here are flat rents and the family's choice of rents.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

24 CFR 5.609 Annual income

Annual income means all amounts, monetary or not which:

1. Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
2. Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
3. Are not specifically excluded in paragraph [5.609(c)].
4. Are amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (as updated for HOTMA per Notice PIH 2024-38) (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- The Effect of Welfare Benefit Reduction (Exhibit 6-4)
- Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.A.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Overview

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and DHC policies in Chapter 9. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources (both earned and unearned) is excluded. [24 CFR 5.609(b)(8) as updated for HOTMA].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded. [24 CFR 5.609(b)(8) as updated for HOTMA].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included. [24 CFR 5.609(a)].
Minors	Earned income is excluded. [24 CFR 5.609(b)(3) as updated for HOTMA]. All other sources of unearned income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Earned income in excess of the dependent deduction is excluded. [24 CFR 5.609(b)(14) as updated for HOTMA]. All other sources of unearned income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define “temporarily” or “permanently” absent or specify a timeframe associated with a temporary versus a permanent absence.

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

PHA Policy

Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member.

Generally, an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

PHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to DHC indicating that the student has established a separate household, or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family. [24 CFR 5.403].

PHA Policy

If a child has been placed in foster care, DHC will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head of Household, Spouse, or Co-Head

PHA Policy

An employed head of household, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Family Members Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, PHAs may determine that that person is no longer a member of the assisted household, and the income of that person is not counted [New PH OCC GB, Income Determinations, p. 12].

PHA Policy

DHC will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

Joint Custody of Children

PHA Policy

Dependents who are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, DHC will make the determination based on available documents such as court orders, or an IRS tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

Caretakers for a Child

PHA Policy

The approval of a caretaker is at the PHA's discretion and subject to the PHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving assistance, DHC will take the following actions:

If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will be screened to determine eligibility to live in public housing. An approved caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases DHC will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6-I.C. CALCULATING ANNUAL INCOME

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

Anticipating Annual Income [24 CFR 5.609(c)(1)]

The DHC is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

The DHC generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the DHC to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

At initial occupancy and for an interim reexamination of family income, the DHC is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. When DHC cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), DHC will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. [24 CFR 5.609(d)] [24 CFR 5.609(d)]

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to DHC to show why the historic pattern does not represent the family's anticipated income.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how DHC annualized projected income.

DHC is required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows DHC to use tenant-provided documents (pay stubs) dated within 120 days of the date received by the PHA to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the DHC does not determine it is necessary to obtain additional third-party data. The DHC may also accept a statement dated within the appropriate benefit year for fixed income sources.

PHA Policy

When EIV is obtained and the family does not dispute the EIV employer data, the DHC will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, the DHC will make every effort to obtain current and consecutive pay stubs dated within the last 120 days.

The DHC will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If the DHC determines additional information is needed.

In such cases, the DHC will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the DHC annualized projected income.

When the DHC cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the DHC will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the DHC to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If DHC verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the new admission or interim reexamination. In such a case DHC would calculate annual income as follows:

($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases DHC will calculate annual income using current circumstances and then, should the change in income require DHC to conduct an interim reexamination, conduct an interim reexamination in accordance with PHA policy in Chapter 9

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within 120 days of the date received by the DHC. Statements dated within the appropriate benefit year will be accepted for fixed income sources.

Projecting Income

In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2); Notice PIH 2023 27]

At annual reexamination, DHC must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with DHC policies in Chapter 9 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rent. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 9.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27; Notice PIH 2024-38]

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24) as updated for HOTMA].

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100 as updated for HOTMA].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b) as updated for HOTMA]. Income earned as a day laborer is not considered nonrecurring income.

A *seasonal worker* is defined as an individual who is hired into a short-term position(e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b) as updated for HOTMA]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27]. Income earned as a seasonal worker is not considered nonrecurring income.

PHA Policy

DHC will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, DHC will verify, and then average amounts received for the two (2) years preceding admission or reexamination. If only a one (1) year history is available, DHC will use the prior year amounts. In either case the family may provide, and DHC will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, DHC will count only the amount estimated by the employer. The file will be documented appropriately.

Some Types of Military Pay

All regular pay, special pay, and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire. [24 CFR 5.609(b)(11) as updated for HOTMA]. Where authorized by HUD, DHC may use actual past income in determining annual income from military pay.

Types of Earned Income Not Counted in Annual Income

Earnings of a Minor [24 CFR 5.609(b)(3) as updated for HOTMA]

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

Earned Income of Full-Time Students [24 CFR 5.609(b)(14) as updated for HOTMA]

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending.

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(b)(8) as updated for HOTMA]. (See Eligibility chapter for a full discussion of live-in aides.)

Resident Service Stipend

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount, not to exceed $200 per individual per month, received by a resident for performing a service for DHC, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, community coaches, community advocates and serving as a member of DHC's governing board. No resident may receive more than one such stipend during the same period of time.

6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; STREAMLINING FINAL RULE (SFR) FEDERAL REGISTER 3/8/16; NOTICE PIH 2023-27]

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating in the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and DHC policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "baseline income." The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that he or she is participating in the EID.

Calculation Method Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

PHA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion

During the second exclusion period of 12 consecutive months, DHC must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

PHA Policy

During the second 12-month exclusion period, DHC will exclude (50 percent) of any increase in income attributable to new employment or increased earnings.

Lifetime Limitation

The EID has a two (2) year (24-month) lifetime maximum. The two (2) year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period,

an individual remains eligible for EID even if they receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

Individual Savings Accounts **[24 CFR 960.255(d)]**

PHA Policy

The DHC chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(B)(28) AS UPDATED FOR HOTMA; NOTICE PIH 023-27]

Annual income includes the net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness may not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in IRS regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

PHA Policy

To determine business expenses that may be deducted from gross income, DHC will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described herein.

Independent Contractors

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24) as updated for HOTMA].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an

independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b) as updated for HOTMA]. This may include individuals such as third-party delivery and transportation service providers and "gig workers" like babysitters, landscapers, rideshare drivers, and house cleaners. Income earned as an independent contractor is not considered nonrecurring income.

Business Expenses

Net income is "gross income less business expense."

To determine business expenses that may be deducted from gross income, DHC will use current applicable IRS rules for determining allowable business expenses, unless a topic is addressed by HUD regulations or guidance as described below.

Where authorized by HUD, DHC may use actual past income in determining net annual income from the operation of a business or profession.

Business Expansion

HUD regulations do not permit the DHC to deduct from gross income expenses for business expansion.

PHA Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit the DHC to deduct from gross income the amortization of capital indebtedness.

PHA Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means DHC will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require the DHC to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

PHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a resident family provided an up-front loan of $2,000 to help a business get started, DHC will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

PHA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

Assets Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant).

6-I.G. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

DHC must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was a public housing resident at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self- sufficiency program as a condition as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self- sufficiency program or work activities requirement, DHC must include in annual income "imputed" welfare income. DHC must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements. [24 CFR 5.615(b)(2)].

For special procedures related to grievance hearings based upon DHC's denial of a family's request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

Offsets

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero. [24 CFR 5.615(c)(4)].

6-I.H. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(B)(9) AS UPDATED FOR HOTMA]

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students. The first category is any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA), which must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i) as updated for HOTMA].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
    - The Higher Education Tribal Grant
    - The Tribally Controlled Colleges or Universities Grant Program

The second category is any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education (not otherwise excluded by the Federally mandated income exclusions) [24 CFR 5.609(b)(9)(ii)]. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is included in income.

Actual covered costs are defined as the actual costs of:

- Tuition, books, and supplies;
    - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the educational institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the DHC.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance

received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

PHA Policy

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the DHC will exclude the full amount of the assistance received under Title IV from the family's annual income. The DHC will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the DHC will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The DHC will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The DHC will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

Example 1

- Actual covered costs: $20,000
- Other student financial assistance: $25,000
- Excluded income: $20,000 ($25,000 in financial assistance - $20,000 in actual covered costs)
- Included income: $5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the DHC will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii) as updated for HOTMA. The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

Example 2

- Actual covered costs: $25,000
- Title IV HEA assistance: $26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: $5,000
- Excluded income: The entire Title IV HEA assistance of $26,000
- Included income: All other financial assistance of $5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the DHC will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

Example 3

- Actual covered costs: $22,000
- Title IV HEA assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $7,000 ($22,000 in actual covered costs - $15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: $5,000
- $7,000 in remaining actual covered costs - $5,000 in other financial assistance
- Excluded income: $15,000 entire amount of the Title IV HEA Assistance + $5,000 in other financial assistance
- Included income: $0

Example 4

- Actual covered costs: $18,000
- Title IV HEA Assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $3,000 ($18,000 in actual covered costs - $15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: $5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by $2,000 ($3,000 in actual covered costs - $5,000 in other financial assistance).
- Included income: $2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

6-I.I. PERIODIC PAYMENTS [NOTICE PIH 2023-27]

Periodic payments are forms of income received on a regular basis. Regulations do not specify which types of periodic payments are included in annual income.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one (1) year that can be extended. Unemployment income and other types of periodic payments are not considered nonrecurring income, unless explicitly excluded from income under 25 CFR 5.609(b) as updated for HOTMA, and thus they are included in annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded

from annual income. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

Lump-Sum Payments for the Delayed Start of a Periodic Payment **[24 CFR 5.609(b)(16) as updated for HOTMA]**

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

PHA Policy

DHC will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family report this during the period in which DHC is processing an annual reexamination, DHC will adjust the tenant rent retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a Repayment Agreement with DHC.

If the delayed-start payment is received outside of the time DHC is processing an annual reexamination, then DHC will consider whether the amount meets the threshold to conduct an interim reexamination. If so, DHC will conduct an interim in accordance with DHC policies in Chapter 9. If not, DHC will consider the amount when processing the family's next annual recertification.

Retirement Accounts **[24 CFR 5.609(b)(26) as updated for HOTMA; Notice PIH 2023-27]**

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

Social Security Benefits **[Notice PIH 2023-27]**

DHC is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

PHA Policy

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, DHC must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

Further, if a family's social security income is garnished for any reason, DHC will use the net amount after the garnishment in order to calculate the family's income.

6-I.J. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(B)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a resident family.

Alimony and Child Support

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

PHA Policy

DHC will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

DHC will count court-awarded amounts for alimony and child support unless the family certifies and DHC verifies that the payments are not being made.

In order to verify that payments are not being made, DHC will review child support payments over the last three months.

If payments are being made regularly, DHC will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, DHC will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, DHC will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If DHC determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If DHC determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

If no payments have been made in the past three months and there are no lump sums, DHC will not include alimony or child support in annual income.

Regular Contributions or Gifts

DHC must count as income regular monetary and non-monetary contributions or gifts from persons not residing with a resident family. Temporary, non-recurring, or sporadic income and gifts are not counted.

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Non-monetary contributions will be valued at the cost of purchasing the items, as determined by DHC. For contributions that may vary from month to month (e.g., utility payments), DHC will include an average amount based upon past history.

When authorized by HUD, DHC may use actual past income in determining annual income from regular monetary and non-monetary contributions or gifts from persons not residing with a resident family.

6-I.K. NONRECURRING INCOME [24 CFR 5.609(B)(24) AS UPDATED FOR HOTMA AND NOTICE PIH 2023-27]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one (1) year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i) as updated for HOTMA].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii) as updated for HOTMA].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv) as updated for HOTMA].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v) as updated for HOTMA].

- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi) as updated for HOTMA]. When calculating annual income, PHAs are prohibited from assigning monetary value to such non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income. However, the value of regular in-kind donations (such as the value of groceries) received by friends and family are included.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii) as updated for HOTMA].

6-I.L. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(B)(19) AS UPDATED FOR HOTMA]

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies, or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

6-I.M. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(B)(25) AS UPDATED FOR HOTMA; FR NOTICE 2/14/23]

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's *net family assets* (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of net family assets). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed the HUD-published threshold amount ($50,000 for 2024, and $51,600 for 2025), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

6-I.N. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(B) AS UPDATED FOR HOTMA; FR NOTICE 1/31/2024]

Other exclusions contained in [24 CFR 5.609(b) as updated for HOTMA; FR Notice 1/31/2024] and that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4) as updated for HOTMA].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5) as updated for HOTMA]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one (1) year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6) as updated for HOTMA].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7) as updated for HOTMA].

- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10) as updated for HOTMA].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10) as updated for HOTMA].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11) as updated for HOTMA].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17) as updated for HOTMA]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20) as updated for HOTMA]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21) as updated for HOTMA]. Generally, payments received by tribal members in excess of the first $2,000 of per capita shares are included in a family's *annual income* for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of annual income in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.
- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23) as updated for HOTMA].

- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27) as updated for HOTMA].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii) as updated for HOTMA].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i) as updated for HOTMA].
- Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii) as updated for HOTMA].

State and Local Employment Training Programs ***[24 CFR 5.609(b)(12)(iv) as updated for HOTMA]***

- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv) as updated for HOTMA].

  PHA Policy

  DHC defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

  DHC defines *incremental earnings* and benefits as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a

training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, DHC will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with the PHA's interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13) as updated for HOTMA].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15) as updated for HOTMA].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20) as updated for HOTMA].
- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) as updated for HOTMA apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22) as updated for HOTMA].
  HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on January 31, 2024. It includes:

  (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b)). This exclusion also applies to assets.
  (b) Benefits under Section 1780 of the Richard B. Russell School Lunch Act and Child Nutrition Act of 1966, including WIC and reduced-price lunches.
  (c) Payments, including for supportive services and reimbursement of out-of-pocket expenses, to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058). The exclusion also applies to assets.
    a. Except, the exclusion does not apply when the Chief Executive Officer of the Corporation for National and Community Service determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under

the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)).

(d) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))

(e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 5506)

(f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)(1))

(g) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 which reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241 (a)(2))

(h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts

(i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Section 6)

(j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))

(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al*., for a period of one (1) year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010

(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407-1408).

(m) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

(n) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.). This exclusion also applies to assets.

(o) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida (42 U.S.C. 12637 (d)).

(p) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721). This exclusion also applies to assets.

(q) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

(r) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)). This exclusion also applies to assets.

(s) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433). This exclusion also applies to assets.

(t) Amounts of student financial assistance funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu).

For Section 8 programs only, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327 (as amended)).

(u) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

(v) Any amount of crime victim compensation that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)).

(w) Any amounts in an "individual development account" are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4)).

(x) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. This exclusion also applies to assets.

(y) Distributions from an ABLE account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09 or subsequent or superseding notice is excluded from income and assets.

(z) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409).

(aa) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021.

(bb) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013-1. The first $2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407).

(cc) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. Chapter 11 or dependency and indemnity compensation under 38 U.S.C. Chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.).

PART II: ASSETS [24 CFR 5.609(B)(3) AND 24 CFR 5.603(B)]

6-II.A. OVERVIEW

There is no asset limitation for participation in the public housing program. However, HUD requires that the DHC include in annual income the anticipated "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the DHC must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)] and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and DHC policies related to each type of asset.

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of net family assets.

Income from assets is always anticipated, irrespective of the income examination type.

Optional policies for family self-certification of assets are found in Chapter 7.

6-II.B. GENERAL POLICIES

Income from Assets

DHC generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the DHC to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) DHC believes that past income

is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant DHC can take into consideration past rental income along with the prospects of obtaining a new tenant.

PHA Policy

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases, the family may present information and documentation to DHC to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

The calculation of asset income sometimes requires the DHC to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

PHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions. If no reasonable costs to dispose of the asset have been provided by the applicant, the DHC will consider 10% of the market value as reasonable costs incurred in lieu of penalties for premature withdrawal, broker and legal fees, commissions fees, and closing costs when determining the cash value of the asset.

Lump-Sum Additions to Net Family Assets **[24 CFR 5.609(b)(24)(viii) as updated for HOTMA; Notice PIH 2023-27]**

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the DHC chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

PHA Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a $1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

Imputing Income from Assets **[24 CFR 5.609(b)(3), Notice PIH 2012-29]**

When net family assets are $5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets that exceed $5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income.

Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA.

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The "safe harbor" is now for the PHA to establish a passbook rate within 0.75 percent of a national average.
- The PHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

PHA Policy

The DHC initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

The DHC will review the passbook rate annually. The rate will not be adjusted unless the current PHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

The effective date of changes to the passbook rate will be determined at the time of the annual review.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

PHA Policy

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the DHC will prorate the asset according to the percentage of ownership.

Jointly Owned Assets [Notice PIH 2023-27]

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access." For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total **value** of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any **income** from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

PHA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the DHC will count the full value of the asset. A family member has unrestricted access to an asset when they can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, and the family demonstrates that they can only access a portion of the income from an asset, then the DHC will prorate the asset according to the percentage of ownership in the calculation of income from assets.

If no percentage is specified or provided for by state or local law, the DHC will prorate the asset evenly among all owners.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

Assets Disposed of for Less than Fair Market Value **[24 CFR 5.603 (b)(2)]**

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of by an applicant or resident participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two (2) years preceding the date of admission or reexamination, as applicable, in excess of the consideration received for the asset.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

Minimum Threshold

HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. DHC may set a threshold below which assets disposed of for less than fair market value will not be counted.

PHA Policy

DHC will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two (2) years exceeds the gross amount received for the assets by more than $1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

PHA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Family Declaration

PHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. DHC may verify the value of the assets disposed of if other information available to DHC does not appear to agree with the information reported by the family.

Asset Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

6-II.C. TYPES OF ASSETS

Checking and Savings Accounts [Notice PIH 2023-27]

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

PHA Policy

- In determining the value of a checking account, the DHC will use the average of the most current 6 month's ending balance.
- In determining the value of a savings account, the DHC will use the current ending balance.
- In determining the anticipated income from an interest-bearing checking or savings account, the DHC will multiply the value of the account by the current rate of interest paid on the account.
- Actual income from checking and savings accounts is always included in a family's annual income.

ABLE Accounts [24 CFR 5.609(b)(10) as updated for HOTMA; Notice PIH 2019-09]

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates

that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

PHA Policy

In determining the market value of an investment account, the DHC will use the value of the account on the most recent investment report.

The DHC will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known.

For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).

When the anticipated rate of return is not known (e.g., stocks), the PHA will calculate asset income based on the earnings for the most recent reporting period.

The cash value of such an asset will be determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25 and PH, p. 121].

PHA Policy

In determining the equity, the DHC will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

The DHC will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the DHC will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income **except** for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

PHA Policy

For the purposes of calculating expenses to convert to cash for real property, the DHC will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

PHA Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the DHC determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts **[24 CFR 5.609(b)(2) and 5.603(b)(4)]**

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Typically, special needs trusts are considered irrevocable. Irrevocable trusts not under the control of any member of the family or household are not assets. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4) as updated for HOTMA]. Further, where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

A *revocable* trust is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

6-II.D. RETIREMENT ACCOUNTS

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.G.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets.

HUD defines n*ecessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items.

Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

PHA Policy

In determining the value of personal property held as an investment, the DHC will use the family's estimate of the value. The DHC may obtain an appraisal if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

Necessary personal property consists of only those items not held as an investment. It may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

Necessary Personal Property	Non-Necessary Personal Property
▪ Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) ▪ Furniture, carpets, linens, kitchenware ▪ Common appliances ▪ Common electronics (e.g., radio, television, DVD player, gaming system) ▪ Clothing ▪ Personal effects that are not luxury items (e.g., toys, books) ▪ Wedding and engagement rings ▪ Jewelry used in religious/cultural celebrations and ceremonies ▪ Religious and cultural items ▪ Medical equipment and supplies ▪ Health care–related supplies ▪ Musical instruments used by the family ▪ Personal computers, phones, tablets, and related equipment ▪ Professional tools of trade of the family, for example professional books ▪ Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities ▪ Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	▪ Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs)) ▪ Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) ▪ Recreational boat/watercraft ▪ Expensive jewelry without religious or cultural value, or which does not hold family significance ▪ Collectibles (e.g., coins/stamps) ▪ Equipment/machinery that is not used to generate income for a business ▪ Items such as gems/precious metals, antique cars, artwork, etc.

Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

Asset Exclusions [24 CFR 5.603(b)]

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
    - Real property as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
    - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any "baby bond" account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and

- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

PART III: ADJUSTED INCOME

6-III.A. INTRODUCTION

Overview

DHC deducts from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (PHA) must deduct the following amounts from annual income:

(1) $480 for each dependent;

(2) $400 for any elderly family or disabled family;

(3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Unreimbursed medical expenses of any elderly family or disabled family;

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7, Verifications.

Anticipating Expenses

Generally, DHC will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), DHC will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, DHC will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. DHC may require the family to provide documentation of payments made in the preceding year.

PHA Policy

When calculating health and medical care expenses, DHC will include those expenses anticipated to be incurred during the 12 months following the certification date reexam which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the PH Occupancy Guidebook states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, Income Determinations, p. 30].

For annual reexaminations, DHC may use information for the previous 12-month period.

DHC will require the family to provide documentation to support their anticipated expense.

6-III.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head of household, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents. [24 CFR 5.603(b) as updated for HOTMA].

6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head of household, spouse, co-head, or sole member is 62 or older, and a *disabled family* is a family whose head of household, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(A)(3)(I) AND 5.603(B) AS UPDATED FOR HOTMA]

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent (3%) of annual income.

The health and medical care expense deduction is permitted only for families in which the head of household, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

Definition of Medical Expenses

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) (as updated for HOTMA) to mean "any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed."

Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502. PHAs must review each expense to determine whether it is eligible in accordance with HUD's definition. While PHA policies may not specifically align with IRS Publication 502, HUD recommends PHAs use it as a standard for determining allowable expenses, and the PHA may list examples of allowable expenses in their policy provided they comply with HUD's definition at 24 CFR 5.603 as updated for HOTMA. The PHA may not define *health and medical care expenses* more narrowly than the regulation.

PHA Policy

The DHC will use the most current IRS Publication 502 as a standard for determining if expenses claimed by eligible families qualify as health and medical care expenses. However, under no circumstances will the DHC deduct any expenses listed in IRS Publication 502 that do not conform with HUD's definition of *health and medical care expenses.*

Summary of Typical Allowable Health and Medical Care Expenses	
Services of medical professionals Surgery and medical procedures that are necessary, legal, and non-cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not non-prescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails) Medical insurance premiums or the cost of a health maintenance organization (HMO) Medicare Part B and Part D premiums	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses. The PHA will use the most current medical mileage rate listed in IRS Publication 502. The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) The costs of buying, training, and maintaining a guide dog or other service animal to assist a visually impaired or hearing disabled person, or a person with other physical disabilities. In general, this includes any costs, such as food, grooming, and veterinary care, incurred in maintaining the health and vitality of the service animal so that it may perform its duties.
Note: This chart provides a summary of eligible health and medical care expenses only. In all cases, the DHC will consider whether health and medical expenses care expenses claimed by the family are eligible under HUD's definition.	

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

PHA Policy

This policy applies only to families in which the head of household, spouse, or co-head is 62 or older or is a disabled person.

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, DHC will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 or older to work; (2) are not paid to a family member or reimbursed by an outside source; (3) in combination with any medical expenses, exceed three percent (3%) of annual income; and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member, (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

PHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, DHC will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When DHC determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes. [PH Occ GB, p. 124].

6-III.F. ELIGIBLE DISABILITY EXPENSES

Examples of auxiliary apparatus are provided in the *PH Occupancy Guidebook* as follows: "Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service animals" [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

PHA Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type, or special equipment to assist a person who is deaf or hard of hearing.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

PHA Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the disabled person to work are eligible.

If the care attendant also provides other services to the family, DHC will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the disabled person, the cost of care must be pro-rated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent on each activity and/or the number of persons under care.

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

Payments to Family Members

No disability expenses may be deducted for payments to a member of a resident family [23 CFR 5.603(b). However, expenses paid to a relative who is not a member of the resident family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

PHA Policy

DHC determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, DHC will collect information from organizations that provide services and support to persons with disabilities. A family may present, and DHC will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

PHA Policy

This policy applies only to families in which the head of household, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, DHC will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-III.G. CHILDCARE EXPENSE DEDUCTION

HUD defines *childcare expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses.

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

PHA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, DHC will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

PHA Policy

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by DHC.

Furthering Education

PHA Policy

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full- time student, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

PHA Policy

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Childcare Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

DHC must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

PHA Policy

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, DHC generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

When the person who is enabled to work is a person who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, childcare expenses are limited to $5,000.

Eligible Childcare Expenses

The type of care to be provided is determined by the resident family. The PHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare.

Allowable Child Care Activities

PHA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, DHC will pro-rate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be pro-rated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent on each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education; and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

PHA Policy

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, DHC will use the schedule of childcare costs from the local welfare agency or from qualified professional services in the area that either

subsidizes childcare costs or licenses childcare providers. Families may present, and DHC will consider, justification for costs that exceed typical costs in the area.

6-III.H. PERMISSIVE DEDUCTIONS

The PHA may adopt additional permissive deductions from annual income if they establish a policy in the ACOP. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128]. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

If the PHA chooses to adopt permissive deductions, the PHA is not eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of those deductions. The PHA must establish a written policy for such deductions.

The Form HUD-50058 Instruction Booklet states that the maximum allowable amount for total permissive deductions is less than $90,000 per year.

PHA Policy

The DHC has opted not to use permissive deductions.

PART IV: CALCULATING RENT

6-IV.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has resident-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by DHC.

TTP Formula **[24 CFR 5.628]**

HUD Regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by DHC.
- The alternative non-public housing rent, as determined in accordance with 24 CFR 960.102

DHC has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-IV.B.

Welfare Rent [24 CFR 5.628]

Welfare rent does not apply in Michigan.

Minimum Rent [24 CFR 5.630]

The minimum rent for DHC is $50.

Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

PHA's have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. At the discretion of the PHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

The PHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to PHA designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

DHC Policy

The PHA chooses not to adopt optional changes to income-based rents.

DHC shall provide for each family residing in a public housing unit to elect annually whether the rent paid by such family shall be 1) determined based on family income, or 2) the flat rent. DHC may not at any time fail to provide both such rent options for any public housing unit owned, assisted, or operated by DHC.

Ceiling Rents [24 CFR 960.253 (c)(2) and (d)]

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135.

PHA Policy

DHC chooses to use ceiling rents.

Utility Reimbursement [24 CFR 960.253(c)(4)]

Utility reimbursement occurs when any applicable utility allowance for resident-paid utilities exceeds the TTP. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

PHA Policy

DHC will pay any utility reimbursements directly to the family.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Reimbursements must be made once per calendar year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship. The PHA must issue reimbursements that exceed $15.00 per month on a monthly basis.

PHA Policy

The DHC will issue all utility reimbursements monthly.

6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT

Overview

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

PHA Policy

DHC has established a minimum rent of $50.00. DHC will grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

If DHC determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

PHA Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

PHA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or resident-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment

(4) A death has occurred in the family.

PHA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances as determined by DHC.

PHA Policy

The DHC has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

PHA Policy

DHC defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days.

The PHA may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the PHA has established a minimum rent of $50.	
TTP – No Hardship	**TTP – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

PHA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

DHC will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

PHA Policy

The DHC will require the family to repay the suspended amount within 30 calendar days of DHC's notice that a hardship exemption has not been granted.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning of the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA may also determine that circumstances have changed, and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon DHC's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

PHA Policy

DHC may enter into a Repayment Agreement in accordance with DHC's Repayment Agreement policy only after all attempts have been made to collect the amount due during the 30-day period. (see Chapter 16).

Long-Term Hardship

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

PHA Policy

The hardship period ends when any of the following circumstances apply:

(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-IV.C. UTILITY ALLOWANCES [24 CFR 965, SUBPART E]

Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the PHA must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation and Individual Relief

On request from a family, PHA's must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies related to reasonable accommodations.

Further, the PHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with an explanation about the additional allowance required.

PHAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company [Utility Allowance GB, p. 19; 24 CFR 965.508].

PHA Policy

The family must request the higher allowance and provide the DHC with information about the amount of additional allowance required.

The DHC will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the DHC will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or DHC may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all residents at move-in and with any notice of proposed allowances, schedule surcharges, and revisions. The DHC will also provide information on utility relief programs or medical discounts (sometimes referred to as "Medical Baseline discounts") that may be available through local utility providers.

The family must request the higher allowance and provide the DHC with information about the amount of additional allowance required.

At its discretion, the DHC may reevaluate the need for the increased utility allowance as a reasonable accommodation at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or DHC-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

Utility Allowance Revisions

The PHA must review at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to standards described in 24 CFR 965.505, must establish revised allowances.

The PHA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rates on which such allowances were based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)].

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)].

PHA Policy

DHC must review its schedule of utility allowances each year.

Between annual reviews, DHC must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based.

Revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

6-IV.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. Except for non-public housing over income families, the PHA must prorate the assistance provided to a mixed family. The PHA will first determine TTP as if all family members were eligible and then pro-rate the rent based upon the number of family members that actually are eligible. To do this, DHC must:

(1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.

(2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).

(3) Multiply the member maximum subsidy by the number of eligible family members.

(4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.

(5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

PHA Policy

Revised public housing flat rents will be applied to a mixed family's rent calculation at the first annual reexamination after the revision is adopted.

(6) When the mixed family's TTP is greater than the applicable flat rent, use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

6-IV.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self- sufficient.

Pursuant to 24 CFR Part 960.235, residents of public housing are afforded the opportunity to choose between two methods of determining the amount of rent the family will pay. These options are flat rent or income-based rent.

Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and reviews of flat rents are contained in Chapter 16.

HUD uses FMRs to help determine Public Housing Flat Rents, which must be set at 80% of FMR or more (PIH Notice 2021-27). 42 USC 1437f requires HUD to post FMRs at least 30 days before they are effective and that they are effective at the start of the federal fiscal year, generally October 1, with 90 days to implement the FMR, from the effective date. DHC's Low-Income Public Housing Program uses FMRs for the Detroit-Warren-Livonia, MI HUD Metro Area.

There is no utility allowance or reimbursement with flat rents. When the family elects to pay the flat rent, the flat rent amount quoted to the family is the amount the family pays.

Family Choice in Rents

With the exception of non-public housing over income families, once each year, the PHA must offer families the choice between a flat rent and an income- based rent. The family may not be offered this choice more than once a year. The PHA must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

PHA Policy

The annual DHC offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

DHC will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the resident file as part of the admission or annual reexamination process.

DHC must provide sufficient information for families to make an informed choice. This information must include DHC's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year DHC is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

With the exception of non-public housing over-income families, A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.

PHA Policy

Upon determination by DHC that a financial hardship exists, DHC will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances for medical costs, childcare, transportation, education, or similar items
- Such other situations determined by DHC to be appropriate.

PHA Policy

DHC considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

Phasing in Flat Rents

When new flat rents requirements were implemented in 2014, HUD limited the increase for existing residents paying flat rent at that time to no more than 35 percent of the current tenant rent per year. In some cases, this meant that some residents had or will have their flat rents phased-in at the time of their annual recertification. To do this, DHC must conduct a flat rent impact analysis to determine whether a phase-in is or was necessary. For families whose flat rent is being phased-in, DHC must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under DHC's policies.

Families who have subsequently been admitted to the program or have subsequently selected flat rent will not experience a phase-in.

Notice PIH 2015-13 requires that flat rents must be phased in at the full 35 percent per year. DHC does not have the option of phasing in flat rent increases at less than 35 percent per year.

Flat Rent Impact Analysis Calculation

In order to conduct a flat rent impact analysis, DHC must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under DHC's policies.

Example: A family was paying a flat rent of $500 per month. At their annual recertification, DHC has increased the flat rent for their unit size to $700. DHC would conduct a flat rent impact analysis as follows:

$500 x 1.35 = $675

Since DHC's increased flat rent of $700 would result in a rent increase of more than 35 percent, DHC would offer the family the choice to pay either $675 per month or an income-based rent. The flat rent increase would need to be phased in.

DHC will conduct a flat rent impact analysis to determine the percentage increase in the family's rent amount. If the increase is greater than 35 percent, DHC will phase in the rent increase at the maximum amount annually over a three (3) year period so that it does not exceed 35 percent in any year until the flat rent is fully phased in. If the increase is 35 percent or less, there will be no phase-in.

Flat Rents and Earned Income Disallowance

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the

exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent regardless whether the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) *Annual income means all amounts, monetary or not, which:*

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) *Annual income includes, but is not limited to:*

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

(B) Are not otherwise excluded under paragraph (c) of this section.

[1] Text of 45 CFR 260.31 follows (next page).

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq*.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and childcare provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as childcare and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609(b) as updated for HOTMA

(b)Annual income does not include the following:

(1) Any imputed return on an asset when net family assets are less than or equal to the HUD-published threshold amount (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from— (

1) The Federal government;

(2) A State, Tribe, or local government;

(3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);

(4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

(5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (

3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)€ of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

(1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;

(2) Expressly to assist a student with the costs of higher education; or

(3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social

Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and (ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets'' does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home

EXHIBIT 6-4: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits (''welfare benefits'') from a State or other public agency (''welfare agency'') under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) ''Specified welfare benefit reduction'' does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) *PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

CHAPTER 7.A.: VERIFICATION

INTRODUCTION

Prior to the PHA's HOTMA compliance date, the PHA will follow policies as outlined in this chapter. Upon the PHA's HOTMA compliance date, the PHA will follow policies as outlined in Chapter 7.B. See page 488 for Chapter 6B.

DHC must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and residents must cooperate with the verification process as a condition of receiving assistance. DHC must not pass on the cost of verification to the family.

This chapter summarizes DHC's verification policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information **(Part II)**, income and assets **(Part III)**, and mandatory deductions **(Part IV)**.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by DHC.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION

The family must supply any information that the DHC determines is necessary to the administration of the program and must consent to DHC's verification of that information.

Consent Forms

All adult applicants and residents must sign form HUD-9886-A, Authorization for Release of Information. The purpose of form HUD-9886-A is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. DHC may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Form HUD 9886-A

All adult applicants and tenants must sign form HUD-9886-A, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886-A at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886-A at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886-A be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886-A at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886-A will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886-A at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886-A is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and DHC may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

DHC may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever DHC determines, the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to DHC to revoke consent.

Penalties for Failing to Consent

If any family member who is required to sign a consent form fails to do so, DHC will deny admission to applicants and terminate the lease of residents. The family may request a hearing in accordance with DHC's grievance procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

DHC has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with DHC policy.

In order for a family to revoke their consent, the family must provide written notice to DHC.

Within 10 business days of the date the family provides written notice, DHC will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, DHC will notify the local HUD office.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS - USE OF OTHER PROGRAMS' INCOME DETERMINATIONS

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous

12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs. Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Tax Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register.*

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

PHA Policy

When available and applicable, the PHA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The PHA will still require third-party verification of all deductions such as the health and medical care expense or childcare expense deductions. Further, if the family is eligible for and claims the disability assistance expense or childcare expense deductions, where applicable, the PHA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the PHA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the PHA will obtain third-party verification of all sources of income and assets (as applicable).

The PHA will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the PHA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;
- State the family size;
- Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and
- Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the PHA does not receive any acceptable income determination documentation or is unable to obtain documentation, then the PHA will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, the PHA will use the most recent income determination, unless the family presents acceptable evidence that the PHA should consider an alternative verification from a different Safe Harbor source.

When the PHA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the PHA. Depending on when the change occurred, the change may or may not impact the PHA's calculation of the family's total annual income. Changes that occur between the time the PHA receives the Safe Harbor documentation and the effective date of the family's annual reexamination will not be considered. If the family has a change in income that occurs after the annual reexamination effective date, the PHA will conduct an interim reexamination if the change meets the requirements for performing an interim reexamination as outlined in Chapter 9. In this case, the PHA will use third-party verification to verify the change.

HUD's Verification Hierarchy

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. DHC will use the most reliable form of verification that is available and will document the reasons when it uses a lesser form of verification.

In order of priority, the forms of verification that DHC will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third-Party Verification which may be provided by applicant or resident Written Third-Party Verification Form
- Written Third-party Verification Form
- Oral Third-Party Verification Self-Certification
- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

Any documents used for verification must be the original, not photocopies, deemed by DHC as an authentic document, and generally must be dated within 120 days preceding the reexamination or DHC request date. The documents must not be damaged, altered or in any way illegible. Any documents used for verification for admissions or recertifications will be considered current for 90 days from the date of receipt.

Verifications may be extended for an additional 30 days with a telephone update. (A record of the update, including the name and title of the individual contacted, must be placed in the applicant's file.) Verified information not subject to change (such as a person's date and place of birth) need not be re-verified. Information obtained that is subject to change, and for which verifications are more than 90 days old, should be reverified.

Print-outs from web pages may be considered original documents.

A DHC staff member who views the original document must make a photocopy and annotate the copy with the name of the person who provided the document and the date the original was viewed.

Any family self-certifications must be made in a format acceptable to DHC and must be signed in the presence of a DHC representative.

File Documentation

DHC must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that DHC has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

DHC will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

At the time DHC accepts a self-certification because it is unable to obtain third-party verification, DHC will document in the family file the reason that third-party verification was not available.

7-I.C. STREAMLINED INCOME DETERMINATIONS

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

PHA Policy

When the PHA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then PHA will use a streamlined income determinations where applicable.

Regardless of the percent of a family's unadjusted income from fixed income sources:

- The PHA will streamline the annual reexamination process by applying the verified COLA/inflationary adjustment factor to fixed-income sources.
- The family will be required to sign a self-certification stating that their sources of fixed income have not changed from the previous year.
- The PHA will document in the file how the determination that a source of income was fixed was made.
- If the family's sources of fixed income have changed from the previous year, the PHA will obtain third-party verification of any new sources of fixed income.
- All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the PHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

- Of all assets when net family assets exceed the HUD-published threshold ($50,000 for 2024, and $51,600 for 2025);
- Of all deductions and allowances from annual income;
- If a family member with a fixed source of income is added;
- If verification of the COLA or rate of interest is not available;
- During the intake process and at least once every three years thereafter.

7-I.D. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to DHC's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to DHC.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until DHC has independently verified the UIV information and the family has been granted the opportunity to contest

any adverse findings through DHC's informal review/hearing processes. For more on UIV and income projection, see section 6-I.C.

Up-front Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for resident families. HUD requires DHC to use the EIV system in its entirety. The following policies apply to the use of the EIV system.

EIV Income and IVT Reports

The data shown on income and income validation tool (IVT) reports is updated quarterly. Data may be between three and six months old at the time reports are generated.

The PHA will obtain income and IVT reports for annual reexaminations on a monthly basis. EIV income reports will be generated as part of the regular reexamination process.

Income and IVT reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6.I.C. Income reports may also be used to meet the regulatory requirement for third-party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

Income and IVT reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income and IVT reports will be retained in resident files with the applicable annual or interim reexamination documents for the duration of the tenancy.

EIV Income Reports must be generated for each annual and interim reexamination performed. A hard copy of the EIV Income Report, EIV Summary Report, and Certification Page must be placed in the resident file with the reexamination documentation. The Certification Page must be signed and dated by both a DHC representative and the adult household members.

For each new admission (form HUD-50058 action type 1), DHC is required to do the following:

- Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
- Print and maintain a copy of the EIV Income Report in the resident file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.
- For each historical adjustment (form HUD-50058 action type 14), DHC is required to do the following:
- Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and
- Print and maintain a copy of the EIV Income Report in the resident file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

For each interim reexamination (form HUD-50058 action type 3) of family income and composition, DHC is required to have the following documentation in the resident file:

- ICN Page - when there is no household income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report. DHC has the discretion to print the EIV Income report although only the ICN page is required.
- EIV Income Report - when there is an income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report.

For each annual reexamination of family income and composition, DHC is required to have the following documentation in the resident file:

- No Dispute of EIV Information - EIV Income Report, current acceptable resident-provided documentation, and if necessary, as determined by DHC, traditional third- party verification form(s).
- Disputed EIV Information - EIV Income report, current acceptable tenant provided documentation, and/or traditional third- party verification form(s) for disputed information.
- Resident-reported income not verifiable through EIV system - Current resident-provided documents, and if necessary, as determined by the DHC, traditional third- party verification form(s).

When DHC determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

However, the PHA will not use income information in EIV at annual reexamination when Safe Harbor verification is used to determine a family's income. EIV Discrepancy Reports

When DHC determines that a resident appearing on the Income Discrepancy Report has not concealed or under-reported income, the resident's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, residents appearing on this list will be eliminated from discrepancy processing until a subsequent interim or annual reexamination has been completed. DHC will review the EIV discrepancy tab during processing of annual and interim reexaminations.

When it appears that a family may have concealed or under-reported income, DHC will request independent written third-party verification of the income in question.

When DHC determines through file review and independent third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Identity Verification

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

DHC will identify residents whose identity verification has failed by reviewing EIV's Identity Verification Report at least on a monthly basis. DHC will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the resident. When DHC determines that discrepancies exist as a result of DHC errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Upfront Income Verification Using Non-HUD Systems (Optional)

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

DHC will inform all applicants and residents that it may use non-HUD systems to which DHC to perform up-front income verification.

7-I. E. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to DHC by the family. If written third-party verification is not available, DHC may attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third-party.

Written Third-Party Verification

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable resident-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

DHC is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

DHC may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

Written, third-party verification includes an original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA.

Generally, third-party documents provided by the family must be dated within 60 days of DHC's request date. If DHC uses actual past income in determining annual income, the documents provided by the family may be dated outside of 60 days of DHC's request date. The PHA will accept a statement dated within the appropriate benefit year for fixed income sources.

If DHC determines that third-party documents provided by the family are not acceptable, DHC will explain the reason to the family and request additional documentation.

As verification of earned income, the PHA will require the family to provide the two most current, consecutive pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PHA may request additional paystubs or a payroll record. (e.g., EIV Income Reports, W-2s, etc.

Written Third-Party Verification Form

When up-front verification is not available and the family is unable to provide written third-party documents, DHC may request a written third-party verification form. This traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income of $2,400 annually or more and there is no UIV or resident-provided documentation to support the income discrepancy.

DHC may mail or e-mail third-party written verification form requests to third-party sources.

DHC will send third-party verification forms directly to the third-party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by DHC.

Oral Third-Party Verification

For third-party oral verification, DHC will contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time, e.g., 10business days.

In collecting third-party oral verification, DHC staff will record in the family's file the name and title of the person contacted, the date and time of the conversation or visit, or attempt, the telephone number used, and the information confirmed.

When any source responds verbally to the initial written request for verification HC will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

When Third-Party Verification is Not Required

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

If the family cannot provide original documents, the DHC will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost. DHC is not required to verify fully excluded income.

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

DHC may accept a self-certification from the family as verification of assets disposed of for less than fair market value.

Value of Assets and Asset Income

For families with net assets totaling $5,000 or less, DHC will accept the family's self- certification of the value of family assets and anticipated asset income when applicable.

The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

DHC will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three (3) years thereafter.

7-I.F. SELF-CERTIFICATION

When HUD requires third-party verification, self-certification, or "resident declaration," is used as a last resort when DHC is unable to obtain third-party verification.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded.
- Net family assets total $5,000 or less and DHC has adopted a policy to accept self- certification at annual recertification, when applicable.
- DHC has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 9).

- When information cannot be verified by a third-party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to DHC.
- DHC may require a family to certify that a family member does not receive a particular type of income or benefit.
- The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

DHC may allow households to self-certify as to having net family assets of less than $5,000, and the amount of income expected to be received from those assets. In these cases, DHC is not required to request supporting documentation such as bank statements from the family to confirm the assets or the amount of income expected to be received from those assets.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

DHC will require families to furnish verification of legal identity for each household member.

Legal identity will be verified on an as needed basis.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current government employer identification card with picture	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the PHA and be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

7-II.B. SOCIAL SECURITY NUMBERS

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN. DHC must accept the following documentation as acceptable evidence of the SSN:

- An original SSN card issued by the Social Security Administration (SSA);
- An original SSA-issued document, which contains the name and SSN of the individual;
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual, along with other identifying information of the individual; or such other evidence of the SSN as HUD may prescribe in administrative instructions.

DHC may reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

DHC will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to DHC within 90 days.

If an applicant family includes a child under six (6) years of age who joined the household within the six (6) months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the DHC determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

DHC will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When the resident requests to add a new household member who is at least six (6) years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. DHC may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the DHC determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period DHC is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

DHC will grant one additional 90-day extension if needed for reasons beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

The SSN must be verified only once during continuously assisted occupancy. DHC will verify each disclosed SSN by:

- Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers.
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder.

Once an individual's status is classified as "verified" in EIV, DHC may remove and destroy copies of documentation accepted as evidence of SSNs.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of social security retirement benefits cannot be provided, DHC will require the family to submit other documents that support the reported age of the family member such as school records, driver's license (if birth year is recorded), and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and residents are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

Verification of marriage status is a marriage license.

Separation or Divorce

Verification of divorce status will be by certified or true copy of the divorce decree signed by a court officer.

Verification of separation will be by certified or true copy of the separate maintenance decree signed by a court officer.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

If an adult who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family, e.g., documentation of another address at which the person resides such as a lease or utility bill.

Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

DHC requires families to provide information about the status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head of household, spouse, or co-head, or

- The family claims a child care deduction to enable a family member to further his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

DHC must verify the existence of a disability in order to allow certain income disallowances and deductions from income. DHC is not permitted to inquire about the nature or extent of a person's disability. DHC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If DHC receives a verification document that provides such information, DHC will not place this information in the resident file. Under no circumstances will DHC request a resident's medical record(s). DHC may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities:

- Inquire into an applicant's ability to meet the requirements of ownership or tenancy;
- Inquire to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability;
- Inquire to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability;
- Inquire about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance; or
- Inquire about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions.

For family members claiming disability who receive disability payments from the SSA, DHC will first attempt to obtain information about disability benefits through EIV. If documentation is not available through EIV, DHC will request a current, i.e., dated within the last 60 days, SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, DHC will ask the family to obtain a benefit verification letter. The family must provide the benefit verification letter to DHC.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, workers' compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets the definition of disability necessary to qualify for waiting list preferences or certain income disallowances and deductions.

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability (see Chapter 3 for the definition of disability). The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Pro-rated assistance is provided for "mixed families" containing both eligible and ineligible persons (see Chapter 3 for detailed discussion of eligibility requirements; Chapter 7 discusses DHC verification requirements related to citizenship status).

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible non-citizen or an ineligible non-citizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual, it need not be collected or verified again during continuously assisted occupancy.

U.S. Citizens and Nationals

DHC requires a declaration, under penalty of perjury, for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

DHC may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless DHC receives information indicating that an individual's declaration may not be accurate.

Eligible Immigrants Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible non-citizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD- funded assistance.

DHC Verification

For family members aged 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, DHC must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

DHC will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

DHC must verify any preferences claimed by an applicant that determined their placement on the waiting list.

DHC offers a preference for families displaced by a Federally declared disaster occurring after July 1, 2005, described in Section 4-III.B. A Family that claims it is being or has been displaced due to such a disaster must provide written verification.

DHC may also seek third-party verification from an agency or other professional declared by the family as being knowledgeable of the family's displacement due a Federally declared disaster.

Families referred under MOU between DHC and partner approved agency.

For families which claim to be eligible for the elderly preference, the family must provide documentation which verifies that the head of household, spouse or co-head is at least 62 years of age, in accordance with Section 7-II.C of this ACOP.

VAWA - Victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking as described in Section 4-III.B. To verify that applicants qualify for the preference, the PHA will follow documentation requirements outlined in Section 16-VII.D.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides DHC policies that supplement the general verification procedures specified in Part Me of this chapter.

7-III.A. EARNED INCOME

Tips

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

DHC may use actual past income from tips in determining annual income.

7-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted, and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

DHC will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination DHC may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, DHC may accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months DHC will require the family

to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

To verify the SS/SSI benefits of applicants, DHC may request a current, i.e., dated within the last 60 days, SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, DHC may help the applicant request a benefit verification letter or ask the family to request one by calling SSA. Once the family has received the original benefit verification letter, it will be required to provide the letter to DHC.

To verify the SS/SSI benefits of residents, DHC will obtain information about social security/SSI benefits through EIV and confirm with the resident(s) that the current listed benefit amount is correct. If the resident disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, DHC will request a current SSA benefit verification letter from each family member that receives social security benefits. If a family member is unable to provide the document, DHC may help the resident request a benefit verification letter or ask the family to request one. Once the family has received the benefit verification letter, it will be required to provide the letter to DHC.

DHC may use other verification methods to conduct a streamlined reexamination of income for elderly and disabled families when 100% of the family's income consists of fixed income.

7-III.D. ALIMONY OR CHILD SUPPORT

The way DHC will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it receives regular payments, verification will be sought in the following order:

Copy of the receipts and/or payment stubs for the 60 days prior to DHC's request, except in cases when HUD authorizes use of actual past income in determining annual income from alimony or child support, where the receipts and/or payment stubs may be for periods outside the 60 days as described in this paragraph. Third-party verification form from the state or local child support enforcement agency. Third-party verification form from the person paying for the support.

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it receives irregular or no payments, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts; or

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts. Note: Families are not required to undertake independent enforcement action.

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two (2) years. DHC needs to verify only those certifications that warrant documentation.

DHC will verify the value of assets disposed of only if:

DHC does not already have a reasonable estimation of its value from previously collected information, or the amount reported by the family in the certification appears obviously in error.

> **Example 1**: An elderly resident reported a $10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.
>
> **Example 2**: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant.

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, DHC will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

DHC will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status:

Before retirement, DHC will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than six (6) months from the effective date of the examination.

Upon retirement, DHC will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, DHC will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I of this ACOP.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

DHC may accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.

DHC will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7-III.I. ZERO ANNUAL INCOME STATUS

PHAs have discretion to establish reasonable procedures to manage the risk of unreported income, such as asking families to complete a zero-income worksheet at admission or periodically after admission to determine if they have any sources of unreported income or searching any UIV sources for unreported income.

In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family.

PHAs may accept a self-certification of zero income from the family without taking any additional steps to verify zero reported income. HUD does not require such self-certifications be notarized.

PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

DHC will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by families claiming to have zero annual income.

DHC will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, the PHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income. The PHA will conduct interims in accordance with PHA policy in Chapter 11.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that DHC verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. DHC will verify that:

Any person under the age of 18 for whom the dependent deduction is claimed is not the head of household, spouse or co-head of the family and is not a foster child.

Any person aged 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide and is a person with a disability or a full-time student.

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. DHC will verify that the head of household, spouse, or co-head is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Health and medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts. DHC will make a best effort to determine what expenses from the past are likely to continue to occur in the future. DHC will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms, if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family self-certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, DHC must verify that the household is eligible for the deduction. The costs to be deducted are qualified medical expenses.

The expenses are not paid for or reimbursed by any other source. Costs incurred in past years are counted only once.

Eligible Household

The health and medical expense deduction is permitted only for households in which the head of household, spouse, or co-head is at least 62 or a disabled person. DHC will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this ACOP.

Qualified Expenses

To be eligible for the health and medical care expense deduction, the costs must qualify as health and medical expenses. See Chapter 6 (6-II.D.) for DHC's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, DHC must verify:

- The anticipated repayment schedule; The amounts paid in the past; and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years.

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider if family-provided documents are not available.
- If third-party verification is not possible, written family self-certification as to costs anticipated to be incurred for the upcoming 12 months.

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Third-party verification form signed by the provider if family-provided documents are not available.
- If third-party or document review is not possible, written family self-certification of estimated apparatus costs for the upcoming 12 months.
- In addition, DHC must verify that the family member for whom the expense is incurred is a disabled person (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.). The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. DHC will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

DHC must verify that the expenses claimed actually enable a family member, or members, including the disabled person, to work.

DHC will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the disabled person requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must self-certify that the disability assistance expense frees a family member, or members, possibly including the family member receiving the assistance, to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

The family will be required to self-certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I.

In addition, DHC must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. DHC will verify that the child being cared for, including foster children is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

The family will be required to self-certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

DHC must verify that the family member(s) identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Information to be Gathered

DHC will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for

students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible, DHC will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases DHC will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to DHC any reports provided by the other agency. In the event third-party verification is not available, DHC will provide the family with a form on which the family member must record job search efforts. DHC will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

DHC will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

DHC will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family but must fall within certain guidelines, as discussed in Chapter 6.

DHC will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

DHC will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., pro-rate costs if some of the care is provided for ineligible family members).

DHC will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members.

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

The actual costs the family incurs will be compared with typical costs in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the locality, DHC will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Exhibit 7-1: Summary of Documentation Requirements for Noncitizens
[HCV GB, pp. 5-9 and 5-10)

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

CHAPTER 8: LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

DHC's leases are the basis of the legal relationship between the DHC and the resident. All units must be occupied pursuant to a dwelling lease that complies with HUD's regulations.

HUD rules also require DHC to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In accordance with HUD requirement, DHC will inspect all units annually including vacant units (24 CFR 5.707, 24 CFR 5.703). In addition, DHC may require additional inspections in accordance with DHC policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and DHC's policies pertaining to lease execution, modification, and payments under the lease.

Part II: Inspections. This part describes DHC's policies for inspecting dwelling units.

PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that DHC may not renew the lease if the family has violated the community service requirement.

Part I of this chapter contains regulatory information, when applicable, as well as DHC's policies governing leasing issues.

VAWA 2022 expanded notification requirements to include the obligation for PHAs to provide families who are admitted to the program a notice of rights.

8-I.B. LEASE ORIENTATION

PHA Policy

After unit acceptance but before occupancy, a DHC representative will provide a lease orientation to the family. The head of household and co-head or spouse is required to attend.

Orientation Agenda

PHA Policy

When families attend the lease orientation, they will be provided with:

- A copy of the lease;
- A copy of DHC's grievance procedure;
- A copy of DHC's schedule of maintenance charges;
- A copy of the pamphlet "Protect Your Family From Lead in Your Home;"
- A copy of HUD's "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system;
- A copy of "Debts Owed to Public Housing Agencies and Terminations" (Form HUD52675), which explains that HUD maintains a national repository of debts owed to any public housing agencies or Section 8 landlords and adverse information of former participants who have voluntarily or involuntarily terminated participation in the public housing or the

Section 8 program and DHC's obligation to report debts owed to it and adverse information of former residents and/or participants to HUD via its EIV System; A copy of the form HUD 5380 VAWA notice of occupancy rights (see section 16-VII.C);

- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual assault, stalking, or human trafficking
- A copy of the DHC's Smoke Free Policy; and
- And other documents DHC deem relevant to occupancy in DHC's developments.

8-I.C. EXECUTION OF LEASE

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one DHC unit to another DHC unit.

The lease must state the composition of the household as approved by DHC (family members and any DHC-approved live-in aide). See Section 8-I.D. for policies regarding changes in family composition during the lease term.

PHA Policy

The head of household, spouse or co-head, and all other adult members of the household must sign the lease before admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and DHC will retain the original executed lease in the family's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide that the live-in aide is not a party to the lease and is not entitled to DHC assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the disabled family member.

8-I.D. MODIFICATIONS TO THE LEASE

Modifications to the Lease Form

The lease may be modified at any time by written agreement of the resident and DHC.

DHC may modify its lease from time to time. However, DHC must give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes. DHC must also consider any comments before formally adopting the modification.

PHA Policy

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30-day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

The Schedule of Resident Charges, the Supplemental ACOP Policies, and rules and regulations are incorporated into the lease by reference and are subject to modification or revision. Residents and resident organizations must be provided at least 30 days' written notice of the reason(s) for any proposed modifications or revisions and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each resident or posted in at least three conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective.

After the proposed revisions become effective, they must be publicly posted in a conspicuous manner in the development's management office and must be furnished to applicants and residents.

PHA Policy

When the PHA proposes to modify or revise schedules of special charges or rules and regulations, the PHA will post a copy of the notice in the central office and will mail or email a copy of the notice to each resident family. Documentation of proper notice will be included in each resident file.

Other Modifications

PHA Policy

The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and DHC will be required to initial and date the change.

If a new household member is approved by DHC to reside in the unit, the person's name and birth date will be added to the lease. The head of household and DHC will be required to initial and date the change. If the new member of the household is an adult, s/he will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

8-I.E. SECURITY DEPOSITS [24 CFR 966.4(B)(5)]

PHA Policy

Residents must pay a security deposit to DHC equal to the family's Total Tenant Payment or $100.00, whichever is lower, at the time of admission. The Executive Director or designee may waive a family's security deposit depending on a family's financial circumstances.

DHC will hold the security deposit for the period the family occupies the unit. DHC will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, DHC will refund to the resident the amount of the security deposit, less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

DHC will provide the resident with a written list of any charges against the security deposit within 15 business days of the move-out inspection. If the resident disagrees with the amount charged, DHC will provide a meeting to discuss the charges.

If the resident transfers to another unit, DHC will transfer the security deposit to the new unit. The resident will be billed for any maintenance or other charges due for the "old" unit.

8-I.F. PAYMENTS UNDER THE LEASE

Rent Payments

Families must pay the amount of the monthly tenant rent determined by the PHA in accordance with HUD regulations and other requirements. The amount of the tenant rent is subject to change in accordance with HUD requirements.

The lease must contain a provision or addendum that tenants will receive notification at least 30 days before an eviction for nonpayment of rent is filed [24 CFR 966.4(q).

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and DHC must give written notice stating any change in the amount of tenant rent and when the change is effective.

PHA Policy

The tenant rent is due and payable at the DHC- designated location on the first calendar day of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

If a family's tenant rent changes, DHC will notify the family of the new amount and the effective date by sending a Notice of Rent Adjustment.

Rent is considered late when not paid by the due date. The Executive Director or designee may waive up to one month's rent in certain instances such as concessions or in the event of DHC error that may result in hardship on the family. Exceptions to this policy must be approved by the Executive Director.

Late Fees and Non-payment [24 CFR 966.4(b)(3); Notice PIH 2021-29]

DHC's grace period for payment is from the 2nd calendar day of the month to the 15th calendar day of the month. No late fees will be charged during the grace period. If the Resident fails to make payment by the end of the grace period, a late fee of $25 will be charged.

The lease will provide that late payment fees are not due and collectible until 2 weeks after DHC gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action.

The lease must also contain a provision or addendum that tenants will receive notification at least 30 days before an eviction for nonpayment of rent is filed [24 CFR 966.4(q)]. The PHA must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. The PHA must not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period [24 CFR 966.4(r)].

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of its right for a hearing under DHC's grievance procedures. DHC must not take the proposed action until the time for the resident to request a grievance hearing has expired, or, if a hearing was requested within the required timeframe, the grievance process has been completed. See Chapter 13 for additional requirements for notices of lease termination.

PHA Policy

A Notice to Quit will be issued to the Resident with a thirty (30) thirty-day notice period, demanding payment in full or the surrender of the premises, any time after the first of the month.

A charge of $25 will be assessed against the Resident for checks returned for insufficient funds (NSF) or checks written on a closed account. The fee will be due and payable thirty 30 days after

billing. DHC will always consider the rent unpaid when a check is returned as NSF, or a check is written on a closed account.

Any payment received will be applied first to the oldest outstanding non-rental charges in the resident's account. Residents under a Repayment Agreement will not be assessed a

$25.00 late fee as long as the resident is current with the Repayment Agreement as defined in Chapter 16 of this ACOP. Waivers from this provision must be approved by the Executive Director or designee.

Excess Utility Charges

If DHC charges the resident for consumption of excess utilities, the lease will state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major resident-supplied appliances.

PHA Policy

When applicable, families may be charged for excess utility usage according to DHC's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable thirty (30) calendar days after billing. If the family requests a grievance hearing within the required timeframe, DHC may not take action for non-payment of the charges until the conclusion of the grievance process.

Non-payment of excess utility charges is a violation of the lease and is grounds for eviction.

Maintenance and Damage Charges

If DHC charges the resident for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges.

The Schedule of Resident Charges for services and repairs is incorporated in the lease by reference and must be publicly posted in a conspicuous manner in the property management office and must be furnished to applicants and residents on request.

PHA Policy

When applicable, families will be charged for maintenance and/or damages according to DHC's then current Schedule of Resident Charges. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs, including overtime, if

applicable. Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable thirty (30) calendar days after billing. If the family requests a grievance hearing within the required timeframe, DHC may not take action for non-payment of the charges until the conclusion of the grievance process.

Non-payment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

Damage Claim Policy

The Detroit Housing Commission ("DHC") will treat each damage claim submission in a fair and equitable manner. However, Residents are encouraged to purchase renters' insurance to cover personal losses and damage to personal items. Damage claims will be processed, to a maximum of $1,500.00 per occurrence, for Residents who have sustained damage to their personal property due to the fault of DHC. Claims must be submitted within sixty (60) days after the date the claim arose. Late claims will not be considered.

DHC is not responsible for and will not process claims related to fire, theft water damage, or similar losses which are not the fault of DHC.

DHC is not responsible for and will not process claims related to loss items that are contained in a space such as a basement and/or garage. DHC will consider losses for washing machine and/or dryers only.

Residents must support a claim with appropriate documentation describing the item(s) damaged and the value of the item(s). If the Resident does not have documentation regarding the value of the item(s), the Resident may self-certify the value. However, the amount of payment for repair or replacement, if any, shall be determined solely by DHC after investigation. The payment amount will be based on receipts, age of the item(s) in question and negotiation with the Resident.

Residents that have renter's insurance must first file a claim with their Insurance provider prior to submitting a damage claim to DHC. Once the claim is made and a notification is

rendered by the Insurance provider, and the resident provides to DHC the insurance provider's rendering, DHC will then consider processing a claim for the deductible not to exceed $1,500 or the original claim not to exceed $1,500. In these cases, the amount paid by DHC will not exceed the deductible.

The Director of Real Estate Management or designee will recommend approval or denial of a claim to the Executive Director. The Executive Director or designee has the final authority to approve or deny a claim.

PART II: INSPECTIONS

8-II.A. OVERVIEW

The PHA is obligated to maintain safe and habitable dwelling units and to make necessary repairs to dwelling units [24 CFR 966.4(e)]. The National Standards for the Inspection Physical Inspection of Real Estate (NSPIRE) are the standard under which HUD housing units, including those under the public housing program, are inspected. NSPIRE ensures that residents of public housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units are functionally adequate, operable, and free of health and safety hazards [24 CFR 5.703(a)]. Further, units must comply with state and local code requirements (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, and residential code) [24 CFR 5.703(f)] as well as with all requirements related to the evaluation and control of lead-based paint hazards [24 CFR 5.703(e)(2)].

Under NSPIRE, public housing units are subject to three types of inspections: annual self-inspections, NSPIRE Inspections (which are used to assess and score the PHA under the Public Housing Assessment System (PHAS)), and NSPIRE Plus Inspections (which are triggered by poor property conditions). HUD regulations also require DHC to inspect each public housing unit prior to move-in and at move-out. DHC may require additional inspections, in accordance with DHC policy. This part contains DHC's policies governing inspections by DHC and HUD, notification of unit entry, and inspection repair timelines. This section discusses inspections conducted by DHC (including annual self-inspections) and inspections conducted by HUD REAC.

8-II.B. TYPES OF PHA-CONDUCTED INSPECTIONS.

Move-In Inspections [24 CFR 966.4(i)]

DHC and the family must inspect the dwelling unit before occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by DHC and the resident, must be provided to the resident and kept in the resident file.

PHA Policy

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

Move-Out Inspections [24 CFR 966.4(i)]

DHC must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes unless the resident vacates without notice to DHC. The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

The move-out inspection will occur within 72 hours of management's knowledge of the unit's actual vacancy.

PHA Policy

When applicable, DHC will provide the resident with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within 15 business days of conducting the move-out inspection.

Self-Inspections [24 CFR 5.707]

Annually all PHAs are required to self-inspect their properties, including all units, to ensure units are maintained in accordance with NSPIRE standards in 24 CFR 5.703. As part of the self-inspection process, PHAs must ensure that deficiencies previously cited and repaired as a result of an NSPIRE inspection have not subsequently failed.

DHC must maintain the results of self-inspections for three (3) years and must provide the results to HUD upon request.

The DHC conducts annual self-inspections of their properties, including all occupied and vacant units.

Quality Control Inspections

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed and within an acceptable time frame.

PHA Policy

Supervisory quality control inspections will be conducted in accordance with the DHC's maintenance plan.

Special Inspections

PHA Policy

DHC staff may conduct a special inspection for any of the following reasons: Housekeeping

- Unit condition
- Suspected lease violation Preventive maintenance Routine maintenance

- There is reasonable cause to believe an emergency exists
- Other Inspections
- Building exteriors, grounds, common areas and systems will be inspected as deemed necessary by DHC.

8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS

Notice of Entry

Non-emergency Entries [24 CFR 966.4(j)(1)]

PHA Policy

DHC will notify the resident in writing at least 48 hours before any non-emergency inspection.

For regular annual self-inspections, the family will receive at least one week's written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice from DHC. Resident-requested repairs presume permission for DHC to enter the unit.

Except for emergencies, management will not enter the dwelling unit to perform inspections where a pet resides unless accompanied for the entire duration of the inspection by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

Emergency Entries [24 CFR 966.4(j)(2)]

DHC may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, DHC will leave a written statement showing the date, time, and purpose of the entry before leaving the dwelling unit.

In cases when entry into a unit is required by a local, county, state, or federal agency or personnel, the entity seeking entry must provide documentation to DHC which validates the need to enter the unit without advance notice. Acceptable documentation includes a search warrant issued to a bona fide law enforcement agency, another court order which grants entry without advance notice, or other documentation deemed acceptable by the Executive Director or designee. Such documentation will be sought for instances which include, but is not limited to, cases in which a fugitive felon, a parole violator, or a person who is subject to lifetime sex offender registration is believed or known to occupy, visit,

and/or reside in the unit, or when law enforcement requests entry into the unit. In instances where a perceived emergency exists, entry may be granted with the approval of the Executive Director or designee. Initial requests for entry made to DHC representatives other than the Executive Director or designee will be forwarded within a reasonable amount of time to the Executive Director or designee for approval prior to entry being granted.

Scheduling of PHA-Conducted Inspections

PHA Policy

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify DHC at least 24 hours before the scheduled inspection. DHC will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. DHC may request verification of such cause.

Attendance at Inspections

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes.

If no one is at home, the inspector will enter the unit, conduct the inspection, and leave a notice that the inspector was in the unit.

DHC is obligated to maintain dwelling units and the project in decent, safe, and sanitary condition and to make necessary repairs to dwelling units.

Emergency Repairs [24 CFR 966.4(h)]

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify DHC of the damage, and DHC must make repairs within a reasonable time frame. Under NSPIRE, the PHA must correct all Life-Threatening and Severe deficiencies within 24 hours.

If the damage was caused by a household member or guest, the PHA must charge the family for the reasonable cost of repairs. The PHA may also take lease enforcement action against the family.

If the PHA cannot make repairs quickly, the PHA must offer the family standard alternative accommodations. If the PHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

If the damage was caused by a household member or guest, DHC may charge the family for the reasonable cost of repairs. DHC may also take lease enforcement action against the family.

Non-emergency Repairs

PHA Policy

DHC will correct deficiencies resulting in a non-emergency work order identified during a DHC conducted inspection within 21 business days of the inspection date. If DHC is unable to make repairs within that period due to circumstances beyond DHC's control, e.g. required parts or services are not available, weather conditions, etc., DHC will notify the family of an estimated date of completion.

The family must allow DHC access to the unit to make repairs.

Resident-Caused Damages

PHA Policy

Damages to the unit beyond wear and tear will be billed to the resident in accordance with the policies in 8-I.G., Maintenance and Damage Charges. Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease. In cases where a fire and/or flood was caused by the resident, household member, and/or their guests intentionally or by neglect, the resident shall be made responsible for the complete cost of the repairs, not to exceed DHC's current insurance deductible. The resident will also be required to sign a Last Chance Agreement with DHC for up to five (5) years.

Housekeeping

PHA Policy

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, DHC will provide proper notice of a lease violation.

A re-inspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a re-inspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector and/or carbon monoxide alarm. Only one warning will be given. A second incidence will result in lease termination.

Smoke Detectors

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector. Only one warning will be given. A second incidence will result in lease termination.

In some cases, the Inspector may find it necessary to take a photographic picture of any noted deficiencies that were found during the inspection.

HUD's Lead Safe Housing Rule

HUD's Lead Safe Housing Rule (LSHR) applies to "target housing," which, under the LSHR, is any housing constructed prior to 1978, except housing for households for the elderly or persons with disabilities or any 0- bedroom dwelling (unless any child who is less than six (6) years of age resides or is expected to reside in such housing). In accordance with HUD's Lead Safe Housing Rule, for public housing, when a child under 6 is identified with an Elevated Blood Lead Level (EBLL), DHC must take the following steps:

Initial notification of a confirmed case to HUD: DHC must notify the Field Office and HUD's Office of Lead Hazard Control (OLHCHH) of the EBLL case within 5 business days.

Initial notification of a confirmed case to public health department, when necessary: DHC must notify the public health department of the EBLL case within 5 business days when it received the notification of the case from another medical health care professional.

Verification of the case, when necessary: If DHC learns that a child has an EBLL from someone other than a medical health care provider, such as from a parent, DHC must immediately verify the report with the health department or medical health care provider.

Environmental Investigation: DHC must conduct an environmental investigation of the child's unit and the common areas servicing that unit within 15 calendar days in accordance with HUD guidelines. If lead-based paint hazards are found in the index unit in a multiunit property, perform risk assessments in other covered units with a child under age 6 and the common areas servicing those units in accordance with HUD guidelines.

Control: DHC must ensure that any lead-based paint hazards identified by the environmental investigation are controlled within 30 calendar days by a certified lead-based paint abatement firm or certified lead renovation firm, including having the unit and common area pass a post-work dust clearance exam in accordance with section 35.1340.

If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards in accordance with HUD guidelines. Notification to other residents: In a multiunit property, DHC must notify all residents of lead evaluation and hazard control activities.

Follow-up notification: DHC must notify the HUD Field Office of the results of the environmental investigation and then of the lead hazard control work within 10 business days of each activity.

Ongoing maintenance and reevaluation: After the work passes clearance, DHC must ensure that the unit and common areas are maintained as lead-safe for continued occupancy, which includes no deteriorated paint or failed lead hazard control methods. DHC must generally conduct periodic reevaluations every two (2) years, using a certified lead risk assessor, and respond to them. The reevaluations shall be for: deteriorated paint surfaces unless they are known not to be lead-based paint, deteriorated, or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments, dust-lead hazards, and soil-lead hazards in newly bare soil. Exceptions from the reevaluation requirement are in section 35.1355(b)(1) and (4); the requirements for responding to the reevaluations are in section 35.1355(c).

8-II.D. NSPIRE INSPECTIONS [24 CFR 5.705(C); NOTICE PIH 2023-16]

During an NSPIRE inspection, REAC inspectors will inspect areas and associated items or components that are listed in the regulations as affirmative requirements and those included within the NSPIRE standards. For most properties, the frequency of NSPIRE inspections is determined by the date of the prior inspection and the score received.

Notice to Residents [Notice PIH 2023-16]

The PHA must provide notice to all residents as described in 24 CFR 5.711(h) and the lease.

PHA Policy

DHC will provide all residents with at least seven days' notice of an NSPIRE inspection. Notice will be provided through multiple communication methods, including by posted notice on each resident's door and through email where applicable. All materials, notices, and communications to families regarding the inspection will be clearly communicated and provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act (Section 504) and HUD's Section 504 regulation, and Titles II or III of the Americans with Disabilities Act (ADA) and implementing regulations.

24-Hour Corrections [24 CFR 5.711(c); Notice PIH 2023-16]

At the conclusion of the NSPIRE inspection, or at the end of the day on multi-day inspections, HUD provides the PHA with a list of Life-Threatening and Severe deficiencies. The PHA must correct all Life-Threatening and Severe deficiencies within 24 hours, with certification of correction submitted to HUD within two business days of receipt of notification of the deficiency.

If permanent repair will take longer than the allowable time in the relevant standard for the deficiency, DHC must provide HUD with a timeframe for completing permanent repairs and submit evidence that the repair is in progress. Any extension to the allowable time for rectifying the deficiency is allowed only upon HUD approval for good cause.

PHA Policy

DHC will correct all Life-Threatening and Severe deficiencies within 24 hours. Correcting the deficiency means the PHA will resolve or sufficiently address the deficiency in a manner that it no longer poses a severe health or safety risk to residents, or the hazard is blocked until permanent repairs can be completed. A correction could include controlling or blocking access to the hazard by performing a temporary relocation of the resident while repairs are made.

While DHC will complete all repairs expeditiously, if a permanent repair is not possible within 24-hours, DHC will correct the deficiency by performing an interim repair to remove the health and safety hazard. If the correction is temporary or professional services or materials are unavailable within 24 hours, DHC will provide a target date for permanent correction. Such interim repairs will be fully completed within a reasonable timeframe approved by HUD.

The family must allow DHC access to the unit to make repairs.

Non-emergency Repairs

Under NSPIRE, DHC must correct Moderate deficiencies within 30 days and Low deficiencies within 60 days, or as otherwise provided in the NSPIRE standards. Repairs should be permanent fixes, unless otherwise approved by HUD in writing. HUD may also prescribe timelines in Corrective Action Plans as defined in 24 CFR 902.3 or Corrective Action Agreements as described in 24 CFR 902.105.

PHA Policy

If DHC is unable to make repairs within the periods identified in the NSPIRE standards due to circumstances beyond DHC's control (e.g., required parts or services are not available, weather conditions, etc.), DHC will provide HUD with a timeframe for completing permanent repairs and obtain HUD approval. DHC will also notify the family of an estimated date of completion.

The family must allow DHC access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

CHAPTER 9.A.: REEXAMINATIONS

INTRODUCTION

This chapter is applicable until the PHA's HOTMA 102/104 compliance date. After this date, the PHA will follow policies as outlined in Chapter 9.B of the model policy. See page 527 for Chapter 6B

DHC is required to monitor each family's income and composition over time, and to adjust the family's rent accordingly. DHC must adopt policies concerning the conduct of annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies.

The frequency with which DHC must reexamine income for a family depends on whether the family pays income-based or flat rent. This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-

based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains DHC's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every three (3) years. This part also contains DHC's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes DHC policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, DHC must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination. Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, DHC must conduct a reexamination of income and family composition at least annually. For families who choose flat rents, DHC must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three (3) years. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

PHAs also have the option of using a Safe Harbor income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA's policies related to use of Safe Harbor income verifications.

For all residents of public housing, whether those residents are paying income-based or flat rents, DHC must conduct an annual review of community service requirement compliance.

DHC is required to obtain information needed to conduct reexaminations. How that information will be collected is left to DHC's discretion. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process. DHC may perform the reexamination in person or via a virtual meeting tool.

This part contains DHC's policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12-month period [24 CFR 960.257(a)(1)].

PHA Policy

Generally, DHC may schedule annual reexaminations to coincide with the family's anniversary date. DHC will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family transfers to a new unit, DHC will perform an interim reexamination; however, the annual anniversary date will remain the same.

DHC may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Streamlined Annual Reexaminations

HUD permits DHC to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three (3) years thereafter, in the intervening years DHC may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. DHC may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, DHC must perform third-party verification of all income sources.

Fixed sources of income include the following:

1. Social Security payments, to include Supplemental Security Income (SSI) and
2. Supplemental Security Disability Insurance (SSDI);
3. Federal, state, local, and private pension plans; and
4. Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments.

Other sources of income are subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

DHC will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. DHC will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, DHC will use third-party verification of all income amounts for that family member. If verification of the COLA or rate of interest is not available, DHC will obtain third-party verification of fixed income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three (3) years thereafter.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income but is not required to verify non-fixed income amounts.

If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

PHA Policy

The PHA will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. The PHA will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, the PHA will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, the PHA will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

Notification of and Participation in the Annual Reexamination Process

DHC is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to DHC's discretion. However, residents who were not provided the opportunity to provide contact information at the time of admission will be provided the option to complete Form HUD-92006 at this time. DHC will provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination.

PHA Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, co-head, and all other adult family members. DHC may perform the reexamination in person or via a virtual meeting tool. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact DHC to request a reasonable accommodation.

Notification of annual reexamination interviews will be sent by mail or hand delivered and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact DHC in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview DHC will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without DHC approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

PHA Policy

Families will be asked to provide all required information, as described in the reexamination notice, for the reexamination appointment. The required information will include a DHC- designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice (HUD 9886), as well as supporting documentation related to the family's income, expenses, and family composition. Reexamination appointments may be conducted in-person or virtually, at DHC's discretion.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame, plus any extensions, the family will be in violation of its lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or DHC has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

1. Legal identity
2. Age

3. Social security numbers
4. A person's disability status
5. Citizenship or immigration status
6. Change in Unit Size

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. DHC may use the results of the annual reexamination to require the family to move to an appropriate size unit. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

PHA Policy

Each household member aged 18 and older will be required to execute a consent form for a criminal background check as part of the annual reexamination process and DHC may utilize the consent to conduct a criminal history check at any time utilizing the consent provided upon admission or the consent provided while the household member is an occupant.

Compliance with Community Service

For families who include non-exempt individuals, DHC will determine compliance with community service requirements once every 12 months.

See Chapter 11 for DHC's policies governing compliance with the community service requirement.

9-I.D. EFFECTIVE DATES

As part of the annual reexamination process, the PHA must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

PHA Policy

In general, an increase in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

- If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.
- If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a Repayment Agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

- If the family causes a delay in processing the annual reexamination, decreases in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by DHC by the date specified, and this delay prevents DHC from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

9-II.A. OVERVIEW

HUD requires that the PHA offer all families the choice of paying income-based rent or flat rent at least annually. The PHA's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the PHA must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three years [24 CFR 960.253(f)The PHA is only required to provide the amount of income-based rent the family might pay in those years that the PHA conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)]. However, these regulations are not applicable to over-income families. Once an over-income determination is made, the PHA must conduct an interim reexamination at 12 and 24 months, as applicable, to determine if the family remains over-income [Notice PIH 2023-03].

This part contains DHC's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

PHA Policy

For families paying flat rents, DHC will conduct a full reexamination of family income and composition once every three (3) years.

However, for flat rent families who become over-income, this policy will not apply. The PHA will instead conduct an interim reexamination at 12 and 24 months following the initial over-income determination as needed to verify the family remains over-income. The family will continue to be given a choice between income-based and flat rent at each annual reexamination during the over-income grace period.

If the family is subsequently determined to no longer be over-income:

If the determination is the result of an annual reexamination, the family will be given a choice between income-based or flat rent at reexam. If the family selects flat rent, the PHA will resume reexamination of family income and composition once every three years.

If the determination is as a result of an interim reexamination, the PHA will conduct an annual reexamination for the family at their next scheduled annual date. If the family selects flat rent, the PHA will resume reexamination of family income and composition once every three years. Families will only be given the choice between income-based and flat rent at annual reexamination.

Reexamination Policies

In conducting full reexaminations for families paying flat rents, DHC will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")

As noted above, full reexaminations are conducted every three years for families paying flat rents. In the years between full reexaminations, regulations require the PHA to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that the PHA does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

Scheduling

The PHA must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

PHA Policy

For families paying flat rents, annual updates for family composition will be conducted in each of the two (2) years following the full reexamination.

In scheduling the annual update, DHC will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

PHA Policy

Generally, the family will not be required to attend an interview for an annual update. However, if DHC determines that an interview is warranted, the family may be required to attend. Notification of the annual update will be sent by mail or hand delivered and will inform the family of the information and documentation that must be provided to DHC. The family will have 10 business days to submit the required information to DHC. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. DHC will accept required documentation by mail, by fax, by email, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, DHC will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to DHC.

If the family does not provide the required documents or information within the required time frame, plus any extensions, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. DHC may use the results of the annual update to require the family to move to an appropriate size unit. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

PHA Policy

Each household member aged 18 and older will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include non-exempt individuals, DHC must determine compliance with community service requirements once every 12 months.

See Chapter 11 for DHC's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS

9-III.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations.

This part includes DHC policies describing what changes families are *required* to report, what changes families *may choose* to report, and how DHC will process both DHC- and family-initiated interim reexaminations.

Interim reexamination appointments may be conducted in-person or virtually, at DHC's discretion.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

DHC must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, the PHA has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

PHA Policy

All families must report all changes in family and household composition that occur between annual reexaminations or annual updates.

DHC will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations. For additions to the household composition, the income of new family member(s) must be included in the income and rent re-determination, and the family's rent will be adjusted accordingly effective the first of the month following a written 30-day notice of the rent increase.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require DHC approval.

PHA Policy

The head of household must inform DHC of the birth, adoption, or court-awarded custody of a child within 10 business days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court- awarded custody, a family must request DHC's approval to add a new family member or other household member, i.e., a live-in aide or foster child [24 CFR 966.4(a)(1)(v); 24 CFR 966.4(d)(3)].

DHC may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which DHC consent will be given or denied. Under such policies, the factors considered by DHC may include:

- Whether the addition of a new household member may necessitate a transfer of the family to another unit, and whether such units are available.
- The PHA's obligation to make reasonable accommodation for persons with disabilities.

DHC's obligation to make reasonable accommodation for persons with disabilities.

PHA Policy

Families must request DHC approval to add a new family member, live-in aide, foster child, child caretaker or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by DHC before the individual moves into the unit.

DHC will not approve the addition of new family or household members other than by birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit under the transfer policy in Chapter 12, unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by DHC. DHC will not approve the addition of adult family members who previously resided at a DHC development for a period of one (1) year from the date that the adult family member moved out of DHC housing. Exceptions must be approved by the Director of Real Estate Management or designee. DHC will not approve the addition of a new family or household member unless the individual meets DHC's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If DHC determines that an individual does not meet DHC's eligibility criteria or documentation requirements, DHC will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

DHC will make its determination within 15 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

PHA Policy

If a family member ceases to reside in the unit, the family must inform DHC within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform DHC within 10 business days of the occurrence of the income change.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because DHC has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, DHC may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so. Families must report income changes within 10 business days of the occurrence of the income change.

PHA Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

DHC will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27]

Increases Less than 10 Percent

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

Increases 10 Percent or Greater

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

When a family reports an increase in their earned income between annual reexaminations, DHC will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

DHC will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

DHC will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with DHC policies in Chapter 15.

Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the

increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

Cumulative Increases **[Notice PIH 2023-27]**

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

Public Housing Over-Income Families **[24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]**

Regardless of changes in adjusted income, in some circumstances the PHA is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. PHAs are required to conduct income examinations of public housing families who have been determined to exceed the over-income limit at specific intervals. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

DHC-initiated Interim Reexaminations

DHC-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by DHC. They are not scheduled because of changes reported by the family.

DHC will conduct interim reexaminations in each of the following instances:

1. For families receiving the Earned Income Disallowance (EID) at the conclusion of the 24-month eligibility period.
2. The family has reported zero annual income (every 6-months as long as the family continues to report that they have no income).

DHC may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, to correct a previous reexamination if resident self- certification documents were used and third-party verifications subsequently become available, or to investigate a resident fraud complaint.

Family-Initiated Interim Reexaminations Required Reporting

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

Families who are receiving the EID are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

DHC will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination. DHC must process the request if the family reports a change that will result in a reduced family income. If a family reports a decrease in income from the loss of welfare benefits due to fraud or noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced. For more information regarding the requirement to impute welfare income see Chapter 6.

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, DHC will note the information in the resident file, but will not conduct an interim reexamination.

A FSS family, at their discretion, may request an interim reexamination if there is an increase in earned income and the increase is a direct benefit to the resident and the associated FSS escrow account.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, DHC will conduct an interim reexamination. See Section 9III.D. for effective dates.

Families may report changes in income or expenses at any time.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family must notify the DHC of changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if DHC determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, DHC will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from DHC. This time frame may be extended for good cause with DHC approval. DHC will accept required documentation by mail, email, or in person.

Effective Dates

DHC must perform the interim reexamination within a reasonable time after the family request.

If the family share of the rent is to decrease the decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PHA Policy

If the tenant rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the tenants rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, DHC must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in DHC's utility allowance schedule. Chapter 16 discusses how utility allowance schedules are established.

Unless DHC revises utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

When DHC re-determines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the resident, not including determination of DHC's Schedule of Utility Allowances, or determines that the resident must transfer to another unit based on family composition, DHC will notify the resident that the resident may ask for an explanation stating the specific grounds of DHC's determination, and that if the resident does not agree with the determination, the resident has the right to request a hearing under DHC's grievance procedure.

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, DHC may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, DHC may

discover errors made by DHC. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

9-IV.E. PREVENTING ERRORS AND PROGRAM ABUSE

DHC anticipates that the vast majority of families and DHC employees intend to and will comply with program requirements and make reasonable efforts to avoid errors. To ensure that DHC's program is administered effectively and according to the highest ethical and legal standards, DHC will employ a variety of techniques to ensure that both errors and intentional program abuse are minimized.

DHC will provide each applicant and resident with a copy of "Is Fraud Worth It?" (Form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

DHC will also provide each applicant and resident with a copy of HUD's "What You Should Know about EIV," a guide to HUD's Enterprise Income Verification (EIV) system. In addition, DHC will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

DHC will require mandatory orientation sessions for all prospective residents either before or upon execution of the lease at which DHC will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the head of household will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

DHC will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

DHC staff will be required to review and explain the contents of all HUD- and DHC-required forms before requesting family member signatures.

DHC may place a warning statement about the penalties for fraud on key DHC forms and form letters that request information from a family member.

CHAPTER 10: PETS

[24 CFR 5, Subpart C; 24 CFR 960, Subpart G]

INTRODUCTION

This chapter explains DHC policies on the keeping of pets and any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of DHC to provide a decent, safe, and sanitary living environment for all residents, and to protect and preserve the physical condition of the property, as well as the financial interest of DHC. The chapter is organized as follows:

Part I: Service Animals and Assistance Animals. This part explains the difference between service animals, assistance animals and pets and contains policies related to the designation of a service animal or assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

Part III: Pet deposits and fees. This part contains policies for pet deposits and fees.

PART I: SERVICE ANIMALS AND ASSISTANCE ANIMALS

10-I.A. OVERVIEW

This part discusses situations under which permission for a service animal or an assistance animal may be denied, and also establishes standards for the care of service and assistance animals.

A service animal is any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition." An assistance animal is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including but not limited to the following:

- Guiding individuals who are blind or have low vision.
- Alerting individuals who are deaf or hard of hearing to sounds Providing protection or rescue assistance;
- Pulling a wheelchair Fetching items.
- Alerting persons to impending seizures.
- Providing emotional support to persons with disabilities who have a disability-related need for such support.

For purposes of reasonable accommodation requests, neither the Fair Housing Act nor Section 504 requires an assistance animal to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals.

Neither service animals nor assistance animals are considered pets, and thus, are not subject to DHC's pet policies described in Parts II through IV of this chapter.

10-I.B. APPROVAL OF SERVICE AND ASSISTANCE ANIMALS [NOTICE FHEO 2020-01]

For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog, and there must be a person with disabilities in the household who requires the dog's services.

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and DHC must approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

10-I.C. CARE AND HANDLING

PHA Policy

Residents must care for service and assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents shall not alter their unit, patio, premises, or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited; however, DHC may consider reasonable accommodation requests for installation.

Residents must ensure that service and assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents. Residents shall be responsible for removing pet waste from DHC premises. The resident shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Residents shall control the noise of the service or assistance animal so that such noise does not constitute a nuisance to neighbors, other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

When a resident's care or handling of a service or assistance animal violates these policies, DHC will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If DHC determines that no such accommodation can be made, DHC may withdraw the approval of a particular service or assistance animal.

Notice of Lease Violation

If a determination is made on objective facts supported by written statements, that a resident has failed to maintain a service or assistance animal in accordance with these policies, a written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the policy(s) that were violated. The notice will also state:

- That the resident has 10 business days from the effective date of the service of notice to correct the violation or make a written request for a meeting to discuss the violation.

- That the resident is entitled to be accompanied by another person of his or her choice at the meeting.
- That the resident's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to terminate the resident's tenancy.

Notice for Removal of Service or Assistance Animal

If resident and DHC are unable to resolve the violation at the meeting or the resident fails to correct the violation in the time period allotted by DHC, DHC may initiate termination of tenancy procedures.

The notice will contain:

- A brief statement of the factual basis for DHC's determination of the policy(s) that has been violated.
- The requirement that the resident must remove the service or assistance animal within 30 calendar days of the notice.
- A statement that failure to remove the service or assistance animal may result in the initiation of termination of tenancy procedures.
- Removal of Service or Assistance Animal

If the death or incapacity of the resident threatens the health or safety of the service or assistance animal, or other factors occur that render the resident unable to care for the animal, the situation will be reported to the responsible party designated by the resident. If the responsible party is unwilling or unable to care for the animal, or if DHC, after reasonable efforts, cannot contact the responsible party, DHC may contact the appropriate state or local agency and request the removal of the animal.

Termination of Tenancy

DHC may initiate procedures for termination of tenancy based on a service or assistance animal policy if:

The resident has failed to remove the animal or correct a policy violation within the time period specified.

The policy violation is sufficient to begin procedures to terminate tenancy under the terms of the lease.

Emergencies

DHC will take all necessary steps to ensure that service or assistance animals that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local agency authorized to remove such animals.

If it is necessary for DHC to place the service or assistance animal in a shelter facility, the cost will be the responsibility of the owner of the service or assistance animal.

If the service or assistance animal is removed as a result of any aggressive act on the part of the animal, the animal will not be allowed back on the premises.

PART II: PET POLICIES FOR ALL DEVELOPMENTS [24 CFR 5, SUBPART C; 24 CFR 960, SUBPART G]

10-II.A. OVERVIEW

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

10-II.B. MANAGEMENT APPROVAL OF PETS

Registration of Pets

PHA Policy

Pets must be registered with DHC before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until completion of the registration requirements.

A photo of the pet approved to reside in a unit must be provided to DHC before the pet is actually residing in a unit. The family must provide to DHC an updated photo of the pet(s) at least annually.

Refusal to Register Pets

PHA Policy

DHC will refuse to register a pet if:

- The pet is not a *common household pet* as defined in Section 10-II.C.
- Keeping the pet would violate any pet restrictions listed in this policy.

- The pet owner fails to provide complete pet registration information or fails to update the registration annually.
- The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet, or been prohibited from future pet ownership due to pet rule violations or a court order.
- DHC reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with the provisions of the lease.

If DHC refuses to register a pet, a written notification will be sent to the pet owner within 15 business days of DHC's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with DHC's grievance procedures.

Pet Agreement

PHA Policy

Residents who have been approved to have a pet must enter into a pet agreement with DHC, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of DHC's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with DHC's pet policy and applicable house rules may result in the withdrawal of DHC approval of the pet or termination of tenancy.

10-II.C. STANDARDS FOR PETS [24 CFR 960.705(B); 5.318]

Definition of "Common Household Pet"

Common household pet is defined as a domesticated dog, cat, guinea pig, gerbil, hamster, rabbit, or birds in cages and fish in aquariums. Reptiles and birds of prey are not common household pets.

Exotic animals, such as iguanas, spiders, snakes (reptiles), rodents, insects, wild animals or feral animals, pot-bellied pigs, animals used for commercial breeding or ferrets, will not be considered household pets, and will not be permitted. Dogs of vicious or aggressive disposition will not be permitted. Due to age and behavioral activities of puppies and kittens, ownership requests for such animals shall be more closely

scrutinized prior to approval in an attempt to ensure that the animal owner resident has the ability to handle the ownership responsibilities involved with such animals.

Pet Restrictions

PHA Policy

The following animals are not permitted:

1. Reptiles of any kind, except for small turtles,
2. Mice and rats
3. Dangerous Fish
4. Spiders and other insects
5. Farm Animals
6. Any animal whose adult weight will exceed 40 pounds
7. Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations
8. Any animal not permitted under state law or local law or ordinance or code.

Number of Pets per Household

PHA Policy

Residents may own a maximum of two pets, regardless of the type of allowable pet. A household may own no more than two animals which includes “Passive Animals.”

The term “Passive Animals” is defined as one or two birds in one cage or one or more fish that can be maintained in a safe and healthy manner in a tank holding up to 25 gallons.

No more than two birds in a cage will count as one animal. An appropriate size aquarium with fish shall count as one animal.

Size of Animals

PHA Policy

The maximum allowable animal size, based upon weight, is forty (40) pounds adult weight, except for service and assistance animals that assist persons with disabilities.

Other Requirements

PHA Policy

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law or code. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident's annual reexamination.

10-II.D. PET RULES

Pet Area Restrictions

Properties Other Than Scattered Sites Properties

PHA Policy

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. Pets must be under the control of the resident or other responsible individual at all times. Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit. Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

The pet owner shall be responsible for the removal of pet waste from DHC grounds by placing it in a sealed plastic bag and disposing of it.

Scattered Site Properties

Pets may be maintained within the resident's unit or in a suitable outdoor enclosure. Residents must obtain DHC permission before constructing an outdoor enclosure for a pet on the scattered site premises.

Pet owners shall comply with applicable laws related to controlling their pets.

The pet owner shall be responsible for the removal of pet waste from the scattered site premises.

Designated Pet/No-Pet Areas [24 CFR 5.318(g), PH GB, p. 182]

PHA Policy

With the exception of common areas as described in the previous policy, DHC has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, DHC has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

Cleanliness

PHA Policy

Pet owners shall be responsible for the removal of waste from DHC grounds by placing it in a sealed plastic bag and disposing of it. The pet owner shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Litter box requirements

PHA Policy

Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.

Litter shall not be disposed of by being flushed through a toilet. Litter boxes shall be kept inside the resident's dwelling unit.

Alterations to Unit

PHA Policy

Except for residents of scattered sites units who have received DHC approval to construct an outdoor enclosure for a pet, pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited; however, DHC will consider reasonable accommodation requests for installation.

Noise

PHA Policy

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises.

This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

DHC may not require pet owners to have any pet's vocal cords removed.

Pet Care

PHA Policy

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet, service, and assistance animal.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents, DHC staff or others and does not damage DHC property.

Responsible Parties

PHA Policy

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify DHC and sign a statement that they agree to abide by all of the pet rules.

Pets Temporarily on the Premises

PHA Policy

Pets that are not owned by a resident are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations and approved by DHC.

Pet Rule Violations

PHA Policy

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation or enforcement. If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

- That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation.
- That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting.
- That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy.

Notice for Pet Removal

PHA Policy

If the pet owner and DHC are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by DHC, DHC may serve notice to remove the pet.

The notice will contain:

- A brief statement of the factual basis for DHC's determination of the pet rule that has been violated.
- The requirement that the resident/pet owner must remove the pet within 30 calendar days of the notice.
- A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures.

Pet Removal

PHA Policy

The death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if DHC, after reasonable efforts, cannot contact the responsible party, DHC may contact the appropriate state or local agency and request the removal of the pet.

Termination of Tenancy

PHA Policy

DHC may initiate procedures for termination of tenancy based on a pet rule violation if:

The pet owner has failed to remove the pet or correct a pet rule violation within the time period specified.

The pet rule violation is sufficient to begin procedures to terminate tenancy under the terms of the lease.

Emergencies

PHA Policy

DHC will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local agency authorized to remove such animals.

If it is necessary for DHC to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

PART III: PET DEPOSITS AND FEES [24 CFR 5.318(D)]

10-III.A. OVERVIEW

This part contains the PHA's policies governing pet deposits. Other pet-related fees and charges are also addressed in this part.

10-III.B. PET DEPOSITS

DHC may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered.

When DHC requires a resident to pay a pet deposit, DHC must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for

rental security deposits, if applicable. DHC must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements.

Payment of Deposit

PHA Policy

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is $300.00 per pet and must be paid in full before the pet is brought on the premises.

The pet deposit does not apply to service and assistance animals.

Refund of Deposit [24 CFR 5.318(d)(1)]

DHC may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including but not limited to the costs of repairs and replacements to, and fumigation of, the resident's dwelling unit. DHC must refund the unused portion of the pet deposit to the resident within a reasonable time after the resident moves from the project or no longer owns or keeps a pet in the unit.

PHA Policy

DHC will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit or for fumigation and/or extermination of fleas or other pests brought in the dwelling unit by the pet, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

DHC will provide the resident with a written list of any charges against the pet deposit within thirty (30) days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, DHC will provide a meeting to discuss the charges.

10-III.C. OTHER CHARGES

Monthly Pet Administration Fee

PHA Policy

Pet owners are required to pay a separate $10.00 monthly charge per pet. The pet administration fee is due by the 1st of each month (at the same time as the rent).

Pet-Related Damages During Occupancy

PHA Policy

All reasonable expenses incurred by DHC as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements in the resident's dwelling unit. Fumigation of the dwelling unit.

Repairs to common areas of the project.

The expense of flea elimination shall also be the responsibility of the resident. If the resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

Pet Waste Removal Charge

PHA Policy

A separate pet waste removal charge of $10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, DHC may not take action for non-payment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.

EXHIBIT 10-1: PET POLICIES

PET POLICIES	ELDERLY/MIXED POPULATION DEVELOPMENTS	GENERAL OCCUPANCY DEVELOPMENTS
1. Definition of common household pet	The pet rules may contain a reasonable definition of common household pet. **§5.306(b**) and **§5.318(a)**	A resident may own one or more common household pets or have one or more present in the unit, subject to the reason-able requirements of the PHA. **§960.707(a)**
2. Resident participation	The PHA must notify all tenants in writing during development of pet rules. The PHA must develop specific procedures governing tenant consultation. Procedures must give tenants adequate opportunity for review and comment before pet rules are issued for effect. **§5.312** and **§5.380**	Resident input is obtained from the Resident Advisory Board, as part of an agency's PHA Plan. **§960.707(e)**
3. Consistency with State and local laws	The pet rules adopted must not conflict with applicable State or local law or regulations. **§5.315(d)**	Reasonable limitations may include prohibitions on types of animals that the PHA classifies as dangerous, if such classifications are consistent with applicable State and local law. **§960.707(b)(3)**
4. Limitations on number of pets in a unit	Pet rules may consider tenant and pet density and may place reasonable limitations on the number of common household pets allowed in each dwelling unit. **§5.318(b)**	Reasonable requirements may include limitations on the number of animals in a unit, based on unit size. **§960.707(b)(2)**
5. Limitations on the number of pets in a development	The pet rules may place reasonable limitations on the size, weight, and type of common household pets allowed in the development. **§5.318(c)**	Reasonable requirements may include restrictions or prohibitions based on size and type of building/project, or other relevant conditions. **§960.707(b)(4)**
6. Pet deposits	Pet rules may require tenants who own or keep pets in their units to pay a refundable pet deposit. PHA may use the pet deposit only to pay reasonable expenses attributable to pet in the project, including but not limited to cost of repairs and replacements to and fumigation of tenant's dwelling unit. PHA must refund the unused portion of the pet deposit to the tenant within a reasonable time after the tenant moves out or no longer owns or keeps a pet in the unit. Maximum pet deposit charged by PHA, on a per unit basis, must not exceed the higher of the total tenant payment or a reasonable fixed amount as PHA may require. Pet rule may permit gradual accumulation of pet deposit by the owner. **§5.318(d)(1) and (3)**	Reasonable requirements may include requiring payment of a non-refundable nominal fee to cover the reasonable operating costs to the property relating to presence of pets, a refundable pet deposit to cover additional costs attributable to pet and not otherwise covered, or both. A PHA that requires a resident to pay a pet deposit must place the deposit in an account of the type required under applicable State or local law for pet deposits or, if State or local law has no requirements regarding pet deposits, for rental security deposits, if applicable. PHA must comply with such applicable law on retention of the deposit, interest, and return of the deposit or portion thereof to the resident, and any other applicable requirements**. §960.707(b)(1) and (d)**

PET POLICIES	ELDERLY/MIXED POPULATION DEVELOPMENTS	GENERAL OCCUPANCY DEVELOPMENTS
7. Protecting the health and safety of pets and residents	Pet rules may prescribe standards of pet care and handling, but must be limited to those needed to protect condition of tenant's unit and the general condition of the project premises, or to protect health or safety of present tenants, PHA employees, and the public. **§5.318(e)**	The resident must maintain each pet in accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations. **§960.707(a)(2)**
8. Pet registration	Pet rules may require pet owners to license their pets in accordance with applicable State and local laws and regulations. **§5.318(f)**	Reasonable requirements may include registration of the pet with the PHA. **§960.707(b)(5)** Also, see number 7.
9. Forbidding removal of any pet's vocal chords	Pet rules may not require pet owners to have any pet's vocal chords removed. **§5.318(e)**	HA may not require pet owners to have any pet's vocal chords removed. **§960.707(c)**
10. PHA Plan	No requirement.	Annual Plans are required to contain information about the PHA's pet policy. **§960.707(e)**
11. Designated pet areas	PHAs may designate buildings, floors of buildings, or sections of buildings as no-pet areas where pets generally may not be permitted. Also, pet rules may designate buildings, floors, or sections of buildings for residency generally by pet-owning tenants. PHAs may direct initial tenant moves as may be needed to establish pet and no-pet areas. PHA may not refuse to admit (or delay admitting) an applicant on the grounds that the applicant's admission would violate a pet or no-pet area. PHA may adjust pet and no-pet areas or direct such additional moves as may be necessary (or both) to accommodate such applicants or meet changing needs of existing tenants. **§5.318(g)**	See number 5.
12. Temporary pets	Pet rules may exclude pets not owned by a tenant to be kept temporarily on the project premises. Pets are "kept temporarily" if they are kept in the tenant's dwelling unit for less than 14 consecutive days and nights. HUD encourages PHAs to permit the use of a visiting pet program sponsored by the humane society. **§5.318(h)**	See number 1.

PET POLICIES	ELDERLY/MIXED POPULATION DEVELOPMENTS	GENERAL OCCUPANCY DEVELOPMENTS
13. Lease Provisions	PHA may bar pets from specified common areas (e.g. lobbies, laundry rooms, social rooms) so long as pet owners can get in and out of building. PHA may require owner to control pet noise and odor. PHA may require dogs and cats to be neutered or spayed. PHAs may choose not to issue pet rules, but any rules issued must follow PHA's lease, **§5.3 rule**, and state and local law.	
14. Miscellaneous rules	PHA may bar pets from specified common areas (e.g. lobbies, laundry rooms, social rooms) so long as pet owners can get in and out of building. PHA may require owner to control pet noise and odor. PHA may require dogs and cats to be neutered or spayed. PHAs may choose not to issue pet rules, but any rules issued must follow PHA's lease, **§5.3 rule**, and state and local law.	

CHAPTER 11: COMMUNITY SERVICE

INTRODUCTION

This chapter explains HUD regulations requiring DHC to implement a community service program for all non-exempt adults living in public housing.

This chapter describes HUD regulations and DHC policies related to these topics in two parts:

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self- sufficiency.

Part II: DHC Implementation of Community Service. This part provides DHC policy regarding DHC's implementation and program design.

PART I: COMMUNITY SERVICE REQUIREMENT

11-I.A. OVERVIEW

HUD regulations establish community service requirements. DHC and residents must comply with the community service requirement, effective with DHC fiscal years that commenced on or after October 1, 2000.

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities [24 CFR 960.601(b)].

In administering community service requirements, DHC must comply with all nondiscrimination and equal opportunity requirements [24 CFR 960.605(c)(5)].

11-I.B. REQUIREMENTS

Each adult resident of DHC, who is not exempt, shall either:

- Contribute 8 hours per month of community service; or
- Participate in an economic self-sufficiency program for 8 hours per month; or
- Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).
- The required community service or self-sufficiency activity may be completed at 8 hours each month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification [Notice PIH 2015-12].

Definitions

Exempt Individual [24 CFR 960.601(b), Notice PIH 2015-12]

An *exempt individual* is an adult who:

- Is age 62 years or older;
- Is blind or disabled (as defined under section 216[i][l] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the community service provisions;
- Is a primary caretaker of such an individual;

- Is engaged in work activities;

  PHA Policy

  DHC will require proof of employment of at least 20 hours per week to qualify for a work activity exemption;

  - Meets the requirements for being exempted from having to engage in work activity under the Michigan program funded under part A of Title IV of the Social Security Act, or under any other Michigan welfare program including a state administered welfare to work program;
  - This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.
  - A member of a family receiving assistance, benefits, or services under the Michigan program funded under part A of Title IV of the Social Security Act, or under any other welfare program administered by Michigan's Department of Human Services including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP) and has not been found by the state or other administering entity to be in noncompliant with such program and can be verified.

Community Service [24 CFR 960.601(b), Notice PIH 2015-12]

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities (24 CFR 960.601 (b)).

Eligible community service activities include, but are not limited to, work at:

- Local public or non-profit institutions such as schools, head start programs, before or after school programs, childcare centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing);
- Non-profit organizations serving DHC residents or their children, including but not limited to, Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Head Start, Think Detroit/Police Activities League (PAL) organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs;
- Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels;

- Public or non-profit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts;
- DHC housing to improve grounds or provide gardens (so long as such work does not alter DHC's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board; and
- Care for the children of other residents so parent may volunteer.

PHA Policy

DHC may accept community service at profit- motivated entities, volunteer work performed at homes or offices of general private citizens. Court-ordered or probation- based work are not eligible community service activities.

The 8 hours of participation in community service must be verified on letterhead of the organization and signed by an authorized representative.

Economic Self-Sufficiency Program

For purposes of satisfying the community service requirement, an *economic self- sufficiency program* is any program designed to encourage, assist, train, or facilitate economic independence of assisted families or to provide work for such families.

Eligible self-sufficiency activities include, but are not limited to:

- Job readiness or job training;
- Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers;
- Employment counseling, work placement, or basic skills training;
- Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes;
- Apprenticeships (formal or informal);
- English proficiency or English as a second language classes;
- Budgeting and credit counseling classes;
- Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling).

Work Activities

As it relates to an exemption from the community service requirement, work activities mean:

- Unsubsidized employment;
- Subsidized private sector employment;
- Subsidized public sector employment;
- Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
- On-the-job training;
- Job search and job readiness assistance;
- Community service programs;
- Vocational educational training (not to exceed 12 months with respect to any individual);
- Job skills training directly related to employment; or
- Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;
- Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate Notification Requirements.

Notification Requirements

DHC must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for DHC verification of exempt status. DHC must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, such as Attachment A of HUD PIH Notice 2015-12, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease. The family must also sign a certification at annual reexamination, such as Attachment B of HUD PIH Notice 2015-12, certifying that they understand the requirement.

PHA Policy

DHC will provide the family with a copy of Community Service Guidelines, at lease-up, at lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

The guidelines will notify the family that self-certification forms are subject to review by DHC.

On an annual basis, at the time of lease renewal, DHC will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes non-exempt individuals, the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform, and the number of hours contributed. The form will also have a place for a signature from an appropriate official, who will certify to the activities and hours completed.

11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE

PHA Policy

Where the lease term does not coincide with the effective date of the annual reexamination, DHC will change the effective date of the annual reexamination to coincide with the lease term. In making this change, DHC will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

Annual Determination of Exemption Status

An exempt individual is excused from the community service requirement.

PHA Policy

At least 90 days before lease renewal, DHC will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or DHC has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination.

Upon completion of the verification process, DHC will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

Determination of Compliance

PHA Policy

Approximately 30 days before the end of the lease term, DHC will provide written notice requiring the family to submit documentation that all subject family members have complied with the community service requirement. The family will have 10 business days to submit to DHC the required documentation.

If the family fails to timely submit the required documentation, or by a DHC-approved extension, the subject family members will be considered non-compliant with the community service requirements, and notices of non-compliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

Change in Status between Annual Reexaminations Exempt to Non-exempt Status

PHA Policy

Exempt to Nonexempt Status

If an exempt individual becomes non-exempt during the twelve-month lease term, it is the head of household's responsibility to report this change to DHC within 10 business days.

Within 10 business days of a head of household reporting such a change or DHC determining such a change is necessary, DHC will provide a 30-day written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member shall record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following the expiration of the 30-day notice period.

Determination of Initial Compliance

When an adult family member becomes subject to community service, he or she must perform 8 hours of community service for each month he or she is subject to the requirement before the end of the lease term (anniversary date). The family member may perform 96 hours of community service in a 12-month period.

Example 1:

Alberto Jones turns 18 on 5/10/15 and is not exempt from the community service requirement. His community service requirement begins on 6/1/15, and his initial compliance is reviewed before the end of the lease term (anniversary date), which is 11/30/15.

- Alberto must perform 6 months of community service in his initial compliance period, before the end of the lease term (anniversary date).

Example 2:

Lisa Dewhurst leaves her job on 9/20/14 and is not exempt from the community service requirement. Her community service requirement begins on 10/1/14, and her initial compliance is reviewed before the end of the lease term (anniversary date), which is 6/30/15.

- Ms. Dewhurst must perform 9 months of community service in her initial compliance period, before the end of the lease term (anniversary date).

Non-exempt to Exempt Status

If a non-exempt person becomes exempt during the twelve-month lease term, it is the head of household's responsibility to report this change to DHC within 10 business days. Any claim of exemption will be verified by DHC in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 15 business days of a head of household reporting such a change, or DHC determining such a change is necessary, DHC will provide the head of household written notice that the family member is no longer subject to the community service requirement, if DHC is able to verify the exemption.

The exemption will be effective immediately.

11-I.D. DOCUMENTATION AND VERIFICATION

Documentation and Verification of Exemption Status

PHA Policy

All family members who claim they are exempt from the community service requirement will be required to sign a community service exemption certification form. DHC will provide a completed copy to the head of household and will keep a copy in the resident file.

DHC will verify that an individual is exempt from the community service requirement by following the verification requirements in Chapter 7.

DHC makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with DHC's determination, s/he can dispute the decision through DHC's grievance procedures (see Chapter 14).

Documentation and Verification of Compliance

If anyone in the family is subject to the community service requirement, DHC will provide the family with community service documentation forms at admission, at lease renewal, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

PHA Policy

Each individual who is subject to the requirement must record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will include places for signatures and phone numbers of supervisors, instructors, and counselors certifying the number of hours contributed. Families will be required to annually submit the documentation to DHC.

If DHC has reasonable cause to believe that the certification provided by the family is false or fraudulent, DHC has the right to require third-party verification.

11-I.E. NON-COMPLIANCE

Initial Non-compliance

Violation of the community service requirement is grounds for non-renewal of the lease at the end of the twelve-month lease term, but not for termination of tenancy during the course of the twelve-month lease term.

DHC may not evict a family due to CSSR non-compliance. However, if DHC finds a resident is non-compliant with CSSR, DHC must provide written notification to the resident of the non-compliance which must include:

- A brief description of the finding of non-compliance with CSSR.
- A statement that DHC will not renew the lease at the end of the current 12-month lease term unless the resident enters into a written work-out agreement with DHC, or the family provides written assurance that is satisfactory to DHC explaining that the resident or other non-compliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a non-compliant family member will comply with the CSSR requirement.

The notice must also state that the head of household may request a grievance hearing on DHC's determination, in accordance with DHC's grievance procedures, and that the head of household may

exercise any available judicial remedy to seek timely redress for DHC's non-renewal of the lease because of DHC's determination.

PHA Policy

The notice of initial non-compliance will be sent at least 30 days before the end of the lease term.

The head of household and non-compliant family member(s) will have 10 business days from the date of the notice of non-compliance to enter into a written work-out agreement to cure the non-compliance over the 12-month term of the new lease, provide documentation that the non-compliant family member no longer resides in the unit, or to request a grievance hearing.

If the head of household reports that a non-compliant family member is no longer residing in the unit, the head of household must provide documentation that the family member has actually vacated the unit before DHC will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member who moved.

If the head of household does not request a grievance hearing or does not take either corrective action required by the notice of non-compliance within the required 10 business day period, DHC will terminate tenancy in accordance with the policies in Section 13-IV.D.

Continued Non-compliance and Enforcement Documentation

Should a family member refuse to sign a written work-out agreement or fail to comply with the terms of the work-out agreement, DHC is required to initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR 966.53(c)) for failure to comply with lease requirements. When initiating termination of tenancy proceedings, DHC will provide the following procedural safeguards:

- Adequate notice to the resident of the grounds for terminating the tenancy and for nonrenewal of the lease;
- Right of the resident to be represented by counsel;
- Opportunity for the resident to refute the evidence presented by DHC, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the resident may have; and A decision on the merits.

PHA Policy

Notices of continued non-compliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice. The

head of household will have 10 business days from the date of the notice of noncompliance to provide documentation that the non-compliant family member no longer resides in the unit, or to request a grievance hearing.

If the head of household reports that a non-compliant family member is no longer residing in the unit, the head of household must provide documentation that the family member has actually vacated the unit before DHC will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the non-compliant family member who moved.

If the head of household does not request a grievance hearing or provide such documentation within the required 10 business day period, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

PART II: IMPLEMENTATION OF COMMUNITY SERVICE

11-II.A. OVERVIEW

DHC must develop a policy for administration of the community service and economic self- sufficiency requirements for public housing. It is in DHC's best interests to develop a viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

PHA Implementation of Community Service

DHC may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by DHC employees or replace a job at any location where residents perform activities to satisfy the community service requirement.

PHA Policy

DHC will notify its insurance company if residents will be performing community service at DHC. In addition, DHC will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that they are able to perform community service, DHC will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

DHC Program Design

PHA Policy

DHC will attempt to provide the broadest choice possible to residents as they choose community service activities.

DHC's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. DHC will work with resident organizations and community organizations to design, implement, assess, and recalibrate its community service program.

DHC will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, DHC will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations.

DHC will provide in-house opportunities for volunteer work or self-sufficiency programs, when possible.

When DHC has a ROSS program, a ROSS Service Coordinator, or an FSS program, DHC will coordinate individual training and service plans with the community service requirement. Regular meetings with DHC coordinators will satisfy community service activities and DHC coordinators will verify community service hours within individual monthly logs.

11-II.B. FAMILY SELF SUFFICIENCY PROGRAM

Family Self-Sufficiency Program

The Family Self-Sufficiency (FSS) program is housed in the Detroit Housing Commission Resident Service Department where Service Coordinators administer the program.

The FSS program has been revised in accordance with the FSS Final Rule published June 16, 2022, which amended the FSS regulations in 24 Part CFR 984 and established 24 CFR part 887 (pertaining to FSS in PBRA properties).

What is the Family Self-Sufficiency Program?

The FSS program helps families in HUD-assisted rental housing to increase their earnings and build financial capability and assets' The FSS program has two key features:

- A financial incentive for participants to increase their earnings in the form of an escrow savings account that increases as participants' earnings increase. The escrow account helps participants build savings that they can use to improve their quality of life and advance their personal goals once they complete the program. Depending on local FSS program policy, escrow funds can also help participants cover the cost of key services that may be needed to make progress toward goals while enrolled in the program, such as employment training or car repair.
- Case management or coaching to help participants access services they may need to overcome barriers to employment, strengthen their financial capability, and address other challenges holding them back from achieving their goals.

Some PHAs are required to run FSS programs, while other PHAs are not. (See Chapter 6 for more information on whether and to what extent PHAs must run an FSS program.) FSS is optional for owners of PBRA developments. Project-based voucher sites that are required to provide supportive services may offer FSS as an option to fulfill that requirement, but a resident may not lose their housing benefit as a result of not participating in FSS.

Under HUD program regulations, resident participation in FSS is completely voluntary. Residents who choose to enroll in FSS work with an FSS program coordinator who helps them identify a series of intermediate- and long-term goals and the steps they plan to take to achieve those goals. These steps include services residents may benefit from accessing, such as job training or basic skills education. The individual goals for each FSS participant and the steps to achieve those goals are recorded in an Individual Training and Services Plan (ITSP). The ITSP is part of an FSS Contract of Participation signed by the agency administering the FSS program and the head of each participating household. The Contract of Participation records the commitments of the family and the FSS program to work together to achieve the identified goals.

All FSS participants are required to include the following two goals in their ITSP:

- All household members must be independent of welfare cash assistance from federal or state welfare programs at the time of graduation from the program. The requirement applies solely to ongoing cash assistance. Food stamps, Medicaid, or short-term non-recurring cash payments (such as a one-time payment of emergency assistance to help a family avoid eviction or meet a medical expense) are not included.

- The Head of FSS Family (the adult who signed the Contract of Participation) must seek and maintain suitable employment.

Participants can also identify other goals. The base Contract of Participation (CoP) lasts for up to five (5) years from the first income re-certification after the (CoP's) execution date, but participants can graduate sooner so long as they have achieved their goals. If participants need more time to fully achieve their goals, they can request an extension of up to two (2) years for good cause (as defined in 24 CFR 984.303(d)).

Once families enroll in FSS they become eligible to build savings through the FSS escrow account. The FSS escrow account is an account maintained by the PHA or owner that grows as the household earnings of FSS participants increase. Like most residents of subsidized housing, FSS participants pay rent based on a percentage of their household income. When residents' household income rises, the amount they must pay toward rent also rises. Unlike other residents, however, FSS participants have an opportunity to capture increased rent payments in the form of escrowed savings. For FSS participants, the PHA or owner will deposit an amount generally equal to the increase in rent due to the household's increased earnings into the FSS escrow account. This allows FSS participants to build savings over time. (See 24 CFR 984.305) for HUD regulations about the FSS escrow account.

FSS participants can access their escrowed savings in two main ways. First, when FSS participants graduate from the program by achieving their ITSP goals, the PHA/owner is required to issue them the full amount of their escrowed savings (minus any amount owed to the PHA/owner) which they may use for any purpose. Second, depending on the program's policies, FSS participants may be allowed to access their escrowed funds prior to graduation when they have achieved one or more interim goals. FSS escrow funds may only be released while the participant is still in the program if the funds will be used for a purpose consistent with the participant's ITSP. For example, some FSS programs allow participants to withdraw FSS escrow funds to pay for college tuition or a job training program or repairs to a car needed to commute to work.

There are also other, less common, circumstances under which participants can access the balance of their FSS escrow accounts without graduating from the FSS program (described under "Termination with Escrow Disbursement" in Section 2.3).

All FSS programs have program coordinators who provide service coordination to participants throughout the course of their participation in the program. FSS program coordinators help participants stay on track toward achieving their goals and access resources in the community to support their progress.

To achieve their individual goals, many participants will need services and resources. These may include employment services (such as resume building, job search assistance, and job training), services to build

financial capability (including credit counseling, financial education, and asset-building programs), educational programs (such as basic skills development, ESL classes, GED preparation, two (2) or four (4) year college courses, and job training), and other wrap-around services such as health care, childcare, transportation, and emergency services. HUD does not fund these services, and most PHAs and owners do not provide them directly. Instead, FSS programs generally form partnerships with service providers in the community and then refer FSS participants to those partners to access the needed services. FSS program coordinators also assess the needs of FSS participants (or make referrals for assessments), help participants set goals, and provide ongoing support and encouragement to help participants achieve their goals (See Chapter 2 for more information on the role of the FSS program coordinator.).

FSS Action Plan

In order to offer an FSS program, a PHA or owner must prepare an FSS Action Plan and submit it to HUD for approval. The FSS Action Plan describes the size of the FSS program, the services that it will offer, and how the program will be administered. In addition to understanding the rules that HUD has specified for the FSS program, it is critical that FSS program coordinators be familiar with the rules that their FSS program has adopted through their HUD-approved FSS Action Plan.

The FSS Action Plan must contain the following information:

- Family demographics: A description of the characteristics of the families expected to be served by the FSS program (including ethnic and racial data, program size) and the supportive service needs of the expected population.
- Estimate of participating families (program size/number of FSS slots): An estimate of the number of eligible families who can reasonably be expected to receive service based on available resources. For PHAs, please note this is different from the minimum number of families that a PHA is funded to serve.
- Eligible families from other self-sufficiency programs: If applicable, the number of families, by program type, who are participating in other local self-sufficiency programs and are expected to agree to execute an FSS CoP;
- FSS family selection procedures: Policies and procedures for selecting FSS participants, including whether the PHA or owner will offer a preference to prospective participants who are already enrolled in, or on the waiting list for, other service programs.
- Outreach efforts: A description of the planned outreach efforts by the PHA or owner to recruit FSS participants from among eligible families and to provide FSS information to minority and non-minority families.

- Incentives to encourage participation: A description of the incentives that the PHA or owner intends to offer eligible families to encourage participation in the FSS program, including FSS escrow accounts.
- FSS activities and supportive services: A description of the activities and supportive services to be provided to FSS families by both public and private providers.
- Method for identification of family support needs: A description of how the PHA or owner will identify the needs of participating families and deliver the appropriate support services.
- Program termination; withholding of services; and available grievance procedures: A description of all policies concerning termination of participation in the FSS program, or withholding of coordination of supportive services, on the basis of a family's failure to comply with the requirements of the CoP; and the grievance and hearing procedures available for FSS families.
- Assurances of non-interference with the rights of non-participating families: A statement that provides an assurance that a family's election not to participate in the FSS program will not affect the family's participation in the rental assistance program.
- Timetable for program implementation: A timetable for implementation of the FSS program, as provided in § 984.301(a)(1), including the schedule for filling FSS slots with eligible FSS families, as provided in § 984.301;
- Certification of coordination (for PHAs only): A certification by the PHA that the development of the services and activities scheduled to be provided under the FSS program has been coordinated with public and private providers, including self-sufficiency programs of the Departments of Labor and Health and Human Services, and other employment, childcare, transportation, training, and education programs. The FSS Action Plan must state that implementation will continue to be coordinated with these local public and private providers in order to avoid duplication of services. (This provision does not apply to PBRA owners.)
- Optional additional information: Any additional information that supports the soundness of the proposed FSS program.
- The FSS Action Plan must also describe all FSS policies over which the PHA or owner has discretion, and other information that would help HUD determine the soundness of the proposed FSS program. This may include, among other topics:
    - Policies related to the modification of goals in the ITSP;
    - The circumstances in which an extension of the Contract of Participation may be granted;
    - Policies on the interim disbursement of escrow, including limitations on the use of the funds (if any);
    - Policies regarding eligible uses of forfeited escrow funds by families in good standing;

- Policies regarding the re-enrollment of previous FSS participants, including graduates and those who exited the program without graduating;
- Policies on requirements for documentation for goal completion;
- Policies on documentation of the household's designation of the "Head of FSS Household; and
- Policies for providing an FSS selection preference for porting families (if the PHA elects to offer such a preference).

Once an Action Plan has been approved by HUD, it does not need to be resubmitted to HUD for approval unless the PHA or owner proposes to make policy changes or to increase the size of its FSS program. In preparing the FSS Action Plan, PHAs and owners must consult with their Program Coordinating Committee. (See Section 3.3 of this guidebook for more information on Program Coordinating Committees.) PHAs and owners shall also consult with representatives of current and prospective FSS program participants and other agencies, or service providers affected by the FSS program.

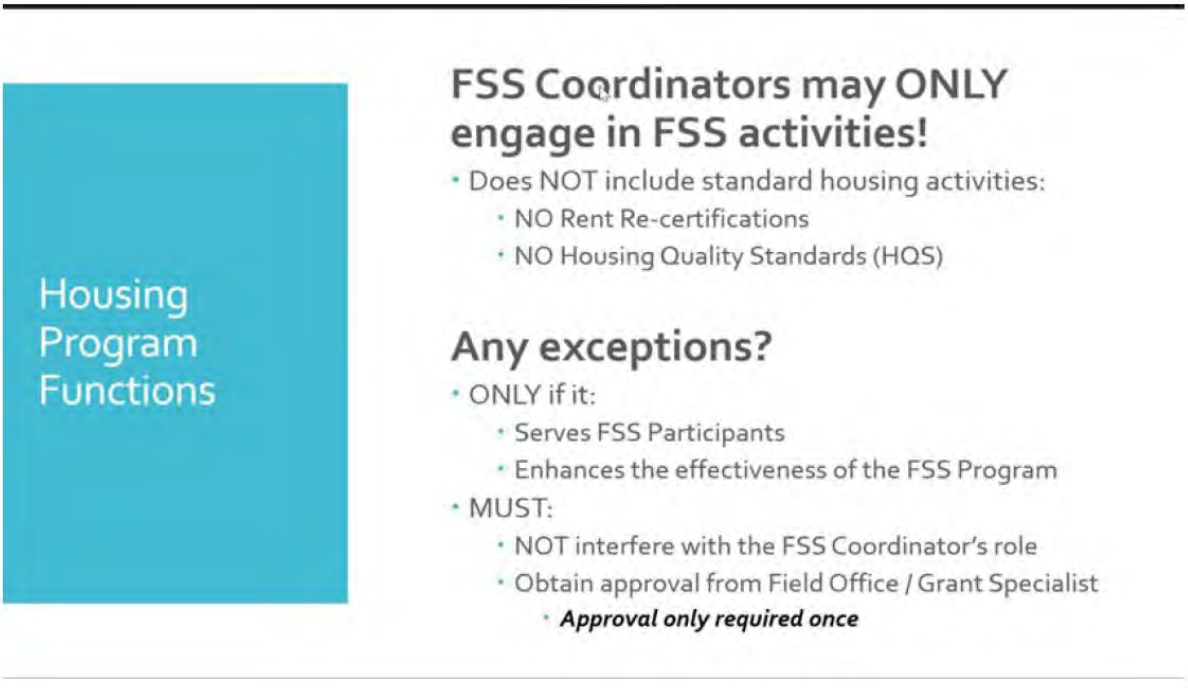
Role of the FSS Program Coordinator

Coordinators execute many functions, including:

- Recruiting participants
- Assessing participants
- Helping participants set goals
- Formalizing the Individual Training and Services Plan and Contract of Participation
- Building partnerships with service providers
- Supporting participants in job search, placement, retention, and advancement
- Helping participants achieve other goals such as education, training, and preparing for homeownership
- Making referrals to service providers
- Monitoring participant progress
- Maintaining escrow accounts and approving escrow disbursement
- Determining when a participant can successfully graduate
- Keeping records of interactions with participants
- Facilitating coordination on FSS among management, finance, and program staff
- Providing information to enable the PHA to complete the required HUD reporting
- Reporting on program outcomes

The many functions generally executed by FSS program coordinators are listed in the box to the right. PHAs and owners have the discretion to determine exactly how to structure their staffing for FSS. In some organizations, the FSS program coordinator will be responsible for all functions associated with running the FSS program. In others, responsibilities are divided among staff. For example, one coordinator may handle the design and implementation of the program while another coordinator has primary responsibility for case management or coaching. A larger FSS program might have an FSS program manager who is responsible for overseeing the work of several program coordinators and building strategic partnerships with service providers. Alternatively, an FSS program may take on outside contractors or work with a nonprofit or other governmental organization (workforce development agency, department of social or human services) to manage staffing needs.

FSS coordinators are outward-facing as well as participant-focused. They must be able to assess the landscape of the services available in the community, identify overlaps and gaps, convene partners, and understand systems and program designs of FSS and other partner agencies. The FSS program coordinator also must be able to establish and maintain high quality, collaborative relationships with service provider partners in the government, non-profit, and private sectors. These skills are separate from, and in addition to, the skills of a case manager or coach, which are also necessary to do the job well.



CHAPTER 12: TRANSFER POLICY

INTRODUCTION

This chapter describes DHC policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs. All emergency transfers concerning victims of domestic violence, dating violence, sexual assault, and stalking are handled under Chapter 16 of this ACOP which addresses the requirements under the federal Violence Against Women Act,9 VAWA). Emergency Transfer Plan. Emergency transfers requested due to VAWA violations are prioritized below in Part I of Emergency Transfers in this Section.

Part II: DHC Required Transfers. This part describes types of transfers that may be required by DHC, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, de-concentration, transferring to another development and reexamination.

DHC may require the resident to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the resident must be provided, that may or may not require a transfer.

The resident may also request a transfer, such as a request for a new unit as a reasonable accommodation.

PART I: EMERGENCY TRANSFERS

12-I.A. OVERVIEW

This section discusses DHC's policies related to emergency transfers.

12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the PHA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

PHA Policy

The following is considered an emergency circumstance warranting an immediate transfer of the resident or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

Other circumstances as determined by the Executive Director or designee.

A resident who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, as provided per HUD regulations, is eligible for an emergency transfer, if: The resident reasonably believes that there is a threat of imminent harm from further violence if the resident remains within the same unit. If the resident is a victim of sexual assault, the resident may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer. A resident requesting an emergency transfer must expressly request the transfer in accordance with DHC's Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual assault, stalking, or human trafficking as stated in Chapter 16 of the ACOP. Residents who are not in good standing may still request an emergency transfer if they meet the eligibility requirements noted in this section.

12-I.C. EMERGENCY TRANSFER PROCEDURES

If the transfer is necessary because the DHC has deemed the unit uninhabitable, DHC will begin by attempting to relocate the residents to a unit in their current development. However, if this is not possible DHC will attempt to relocate them to another unit under DHC's jurisdiction. If there is no available unit deemed suitable for their household composition within the DHC portfolio, DHC will arrange temporary lodging at a hotel or similar location preferably with kitchen facilities. If DHC determines that the conditions that precipitated the transfer cannot be repaired, or the condition cannot be repaired in a

reasonable amount of time, DHC will permanently transfer the resident to the first available and appropriate unit after the temporary relocation. Emergency transfers may not qualify for a right of return.

Emergency transfers are mandatory for the resident.

12-I.D. COSTS OF TRANSFER

DHC will bear the reasonable costs of temporarily accommodating the resident and of long-term transfers, if any, due to emergency conditions.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

DHC will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, DHC will collect information from companies in the community that provide these services, per DHC's Procurement Policy.

DHC will reimburse the family for eligible out-of-pocket moving expenses up to DHC's established moving allowance or DHC may move the resident with its staff or contracted services.

DHC may pay all necessary utility transfer charges.

In the case of Emergency Temporary Transfers where the family is displaced and cannot be housed in a unit under DHC jurisdiction and the temporary housing does not have kitchen facilities, the DHC will provide residents with a daily stipend equivalent to the current year GSA rate for the Detroit metropolitan area.

PART II: DHC REQUIRED TRANSFERS

12-II.A. OVERVIEW

DHC may require that a resident transfer to another unit under some circumstances.

12-II.B. TYPES OF DHC REQUIRED TRANSFERS

PHA Policy

The types of transfers that may be required by DHC, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, units determined to be uninhabitable, and emergency transfers as discussed in Part I of this chapter.

Transfers classified as required by DHC are mandatory for the resident.

Transfers to Make an Accessible Unit Available

PHA Policy

When a family is initially given an accessible unit, but does not require the accessible features, when a non-accessible unit becomes available, DHC will transfer the family to an available unit that is not accessible. DHC may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

Occupancy Standards Transfers

PHA Policy

DHC will transfer a family when the family size has changed, and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on DHC's occupancy standards as described in Section 5-I.B. DHC may also transfer a family that was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on DHC's occupancy standards, when DHC determines there is a need for the transfer.

DHC may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by DHC that a transfer is necessary, and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

Families Involuntarily Displaced by DHC's Action

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

PHA Policy

DHC will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. DHC's relocation plan requires transferring affected families to other available public housing units during the rehabilitation.

If the relocation plan calls for transferring residents to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under the Uniform Relocation Act provisions, and may be allowed to return to their unit, depending on occupancy standards and contractual and legal obligations, once revitalization or rehabilitation is complete.

12-II.C. ADVERSE ACTION

A DHC-required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, DHC may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

PHA Policy

DHC may bear the reasonable costs of required transfers up to the maximum moving allowance as published by DHC annually.

The reasonable costs of transfers include the cost of packing, moving, and unloading.

DHC will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, DHC will collect information from companies in the community that provide these services.

DHC may reimburse the family for eligible out-of-pocket moving expenses up to DHC's established moving allowance or DHC may move the resident with its staff or contracted services. When an

accessible unit becomes vacant, DHC must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability.

PART III: TRANSFERS REQUESTED BY RESIDENTS

12-III.A. OVERVIEW

The only requests that DHC is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of DHC. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by DHC.

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

PHA Policy

The types of requests for transfers that DHC will consider are limited to requests for transfers to alleviate a serious or life-threatening medical condition, transfers due to a threat of physical harm or criminal activity, providing no family member is involved, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to DHC's occupancy standards, and transfers to a location closer to employment. In cases where DHC may have to offer housing to non-near-elderly families due to an insufficient number of applicants on a wait list at a Senior Designated development, DHC may permit transfers of Elderly families occupying a unit at Senior Designated Developments to other Senior Designated Developments. No other transfer requests will be considered by DHC.

DHC will consider the following as high priority transfer requests:

When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature.

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at DHC's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual assault, stalking, or human trafficking. For instances of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the threat may also be established through documentation outlined in section 16-VII.D, or by any proof accepted by DHC.

When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first- floor unit for a person with mobility impairment, or a transfer to a unit with accessible features.

DHC may elect to process "Split-family transfers" as an administrative necessity, a modernization or rehabilitation project, or as a reasonable accommodation as verified for a family with a disabled household member, where such transfer is the optimal means of complying with the accommodation. Families that split into two or more "new" households may be transferred to two or more different units or a portion of the "old" household may be transferred to a single unit depending on family circumstances and unit availability. Options for split-family transfers will be considered in order to minimize the impact on vacant units. Such transfers will be made in a manner that best mirrors the DHC mission. Each head of household (for both the "old" and "new" households) must meet DHC's eligibility and suitability criteria prior to approval of the split-family transfer.

12-III.C. ELIGIBILITY FOR TRANSFER

PHA Policy

Except where a reasonable accommodation is being requested, DHC will only consider transfer requests from residents that meet the following requirements:

- Residency in a DHC housing unit for at least one (1) year prior to the transfer request date.
- Have not engaged in criminal activity that threatens the health and safety of residents and staff.
- Must get utilities turned on in the name of a person aged 18 or older and maintain utilities during tenancy (applicable only to properties with resident-paid utilities).
- Account balance must be zero dollars ($0.00), or have a credit balance, prior to transfer.
- No more than two late rent payments for the twelve (12) month period preceding the transfer request date. No more than one (1) Repayment Agreement within the two (2) year period preceding the transfer request and transfer offer date. NOTE: This requirement may be waived at the discretion of DHC for residents with a current Repayment Agreement which was made effective prior to July 1, 2017.
- No case or writ filings in landlord/tenant court in the twelve (12) month period preceding the transfer request and transfer offer date.
- Meet reasonable housekeeping standards in the twelve (12) month period preceding the transfer request and transfer offer date.

- Compliant with all other lease requirements.

Residents who are seeking emergency transfers because of VAWA violations are not required to be in good standing with DHC as required in the previous paragraphs.

Exceptions may also be made when DHC determines that a DHC-required transfer is warranted or is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two (2) years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

12-III.D. SECURITY DEPOSITS

PHA Policy

When a family transfers from one unit to another, DHC will transfer their security deposit to the new unit. The resident will be billed for any maintenance or others charges due for the "old" unit, unless the family is vacating a DHC LIPH unit and transferring to a mixed-financed LIPH unit. Then, the family's security deposit will be returned, less any outstanding rent and unit damages. The family will be required to pay a new security deposit at the time of admission to the mixed-finance LIPH unit.

12-III.E. COST OF TRANSFER

PHA Policy

The resident will bear all of the costs of transfer s/he requests. However, DHC will bear the transfer costs when the transfer is done as a reasonable accommodation.

12-III.F. HANDLING OF REQUESTS

PHA Policy

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In case of a reasonable accommodation transfer, DHC will encourage the resident to make the request in writing using a reasonable accommodation request form. However, DHC will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

DHC will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with section 16-VII.D of this ACOP.

If the family does not meet the requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied. While on the transfer list, if a family ceases to meet all eligibility requirements, DHC may remove the family from the transfer list. If DHC elects to remove the family from the transfer list, the resident will be notified in writing of DHC's decision and reason(s) for transfer list removal.

DHC will respond within 15 business days of the submission of the family's request. If DHC denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, transfers should be placed on a transfer list and handled in the appropriate order.

12-IV.B. TRANSFER LIST

PHA Policy

DHC will maintain a centralized, auditable transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers will not automatically go on the transfer list. Instead, emergency transfers will be handled immediately, on a case-by-case basis. If the emergency will not be finally resolved by a temporary accommodation, and the resident requires a permanent transfer, that transfer will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions)
2. High-priority transfers (verified medical condition, threat of domestic violence as set forth under the Violence Against Women Act or other harm or criminal activity, and reasonable accommodation) - Transfers to make accessible units available - Demolition, renovation, etc.
3. Occupancy standards
4. Other DHC-required transfers
5. Other resident-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the Executive Director or designee, DHC may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow DHC to meet the demolition or renovation schedule.

Only high-priority transfers, and those mandated by DHC (excluding Occupancy standards transfers), will have priority over new admissions.

Occupancy standards transfers will be processed at the ratio of one occupancy standards transfer for every five new admissions DHC-wide. Resident-requested transfers will be processed at the ratio of one (1) resident-requested transfer for up to every ten (10) waiting list admissions DHC-wide.

These ratios can be adjusted at the discretion of the Executive Director or designee, if it is determined that it is in the best interests of DHC and the family to approve the transfer.

An adjustment to the ratios is permissible when DHC must comply with occupancy standards in accordance with HUD requirements and federal state and local laws.

If during the family's annual recertification, it is determined that a household is over/under housed by two or more bedrooms, DHC will place those households at the top of the Occupancy Transfer List based on the completion date of the re-examination.

If at any point, DHC identifies that 20% or more of families are verified as over/under housed, DHC-wide, DHC may conduct a mass transfer, of those families, to comply with DHC's subsidy standards. Household compositions will be monitored quarterly.

Once DHC has initiated an action for a family (e.g., recertification, relocation, etc.) that warrants a transfer of the family to another appropriately sized unit, DHC will not permit additions to the household without the approval of the Director of Real Estate Management, or his/her designee. The transfer will be based on the current household composition at the time of DHC's initiation of action. DHC will not approve the addition of new family or household members for (12) twelve months following the completion of the most recent transfer action, other than a household addition due to birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit under the transfer policy in Chapter 12. If a family makes a request to add a family member of twelve (12) months, DHC will consider demonstrated medical needs or other extenuating circumstances, including reasonable accommodation, in deciding whether to approve the addition to the household.

12-IV.C. TRANSFER OFFER POLICY

PHA Policy

Residents will receive one offer of a transfer or unit reassignment, at the discretion of DHC.

Residents will have three (3) business days to accept, sign and are return the unit reassignment or transfer offer. DHC will also accept a digital acknowledgement of the resident's acceptance.

When the transfer is required by DHC, refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait two (2) years to reapply for another transfer.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

PHA Policy

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to DHC's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to DHC's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from

a law enforcement agency, or documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint, and the family includes children under the age of six. DHC will require documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

PHA Policy

If subject to deconcentration requirements, DHC will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve DHC's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

PHA Policy

The date of the transfer does not change the annual recertification date. The Site Manager of the new development should be certain that the annual review is properly scheduled to give staff time to re-determine rent in order to meet the established recertification date.

CHAPTER 13 LEASE TERMINATIONS

INTRODUCTION

A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program, to assure that qualified families are provided decent, safe, and sanitary housing which is in good repair. DHC may terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations specify some reasons for which DHC can terminate a family's lease and give DHCs authority to determine other reasons.

When determining DHC policy on terminations, state landlord-tenant laws must be considered. These laws may be either more or less restrictive than federal law or HUD regulations.

This chapter presents the policies that govern both the family's and DHC's termination of the lease. It is presented in four parts:

Part I: Termination by Resident. This part discusses the family's voluntary termination of the lease and the requirements DHC places upon families who wish to terminate their lease.

Part II: Termination by DHC - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by DHC occurs. This part also includes non-renewal of the lease for non-compliance with community service requirements.

Part III: Termination by DHC – Other Authorized Reasons. This part describes DHC's options for lease termination that are not mandated by HUD regulations but for which

HUD authorizes DHCs to terminate. For some of these options HUD requires DHC to establish policies and lease provisions for termination, but termination is not mandatory. For other options DHC has full discretion whether to consider the options as just cause to terminate provided that DHC policies are reasonable, non-discriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that DHC may consider in lieu of termination, and the criteria DHC will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and DHC policies regarding the timing

and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

PART I: TERMINATION BY TENANT

13-I.A. RESIDENT CHOOSES TO TERMINATE THE LEASE [24 CFR 966.4(K)(1)(II) AND 24 CFR 966.4(L)(1)]

PHA Policy

If a family desires to move and terminate their tenancy with DHC, they must give at least 30 calendar days advance written notice to DHC of their intent to vacate. When a family must give less than 30 days' notice due to circumstances beyond their control DHC, at its discretion, may waive the 30-day requirement.

The notice of lease termination must be signed by the head of household, spouse, or co- head and delivered to the development office or sent by pre-paid first-class mail, properly addressed to the development office.

PART II: TERMINATION BY DHC – MANDATORY

13-II.A. OVERVIEW

HUD requires DHC to terminate the lease in certain circumstances. In other circumstances HUD requires DHC to establish provisions for lease termination, but it is still DHC's option to determine, on a case-by-case basis, whether termination is warranted. For those resident actions or failures to act where HUD requires termination, DHC has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires DHC to terminate the lease.

13-II.B. FAILURE TO PROVIDE CONSENT [24 CFR 960.259(A) AND (B)]

DHC must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial of

admission or termination of assistance [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

PHA Policy

The PHA has established a policy that revocation of consent to access financial records will result in termination of assistance in accordance with PHA policy.

See Chapter 7 for a complete discussion of consent requirements.

13-II.C. FAILURE TO DOCUMENT CITIZENSHIP [24 CFR 5.514(C) AND (D) AND 24 CFR 960.259(A)]

DHC must terminate the lease if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;

(2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family, resulting in no eligible family members; or (3) a family member, as determined by DHC, has knowingly permitted another individual who is not eligible for assistance to reside, on a permanent basis, in the unit. For (3), such termination must be for a period of at least 24 months. This does not apply to ineligible non-citizens already in the household if the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS [24 CFR 5.218(C), 24 CFR 960.259(A)(3), NOTICE PIH 2018-24]

DHC must terminate assistance if a family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number (SSN).

However, if the family is otherwise eligible for continued program assistance, and DHC determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, DHC may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date DHC determined the family to be non-compliant if there is a reasonable likelihood that the family will be able to disclose a SSN by the deadline.

See Chapter 7 for a complete discussion of documentation and certification requirements.

13-II.E. FAILURE TO ACCEPT DHC'S OFFER OF A LEASE REVISION [24 CFR 966.4(L)(2)(II)(E)]

DHC must terminate the lease if the family fails to accept DHC's offer of a lease revision to an existing lease, provided DHC has done the following:

- The revision is on a form adopted by DHC in accordance with federal requirements pertaining to requirements for notice to residents and resident organizations and their opportunity to present comments.
- DHC has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.
- DHC has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to DHC policies for offering lease revisions.

13-II.F. METHAMPHETAMINE CONVICTION [24 CFR 966.4(L)(5)(I)(A)]

DHC must immediately terminate the lease if DHC determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

See Part 13-III.B. below for the HUD definition of *premises*.

13-II.G. LIFETIME REGISTERED SEX OFFENDERS [NOTICE PIH 2012-28]

Should DHC discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, DHC must immediately terminate assistance for the household member.

In this situation, DHC must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, DHC must terminate assistance for the household.

13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS [24 CFR 966.4(L)(2)(II)(D), 24 CFR 960.603(B) AND 24 CFR 960.607(B)(2)(II) AND (C)]

DHC is prohibited from renewing the lease at the end of the 12-month lease term when the family fails to comply with the community service requirements as described in Chapter 11.

13-II.I. DEATH OF A SOLE FAMILY MEMBER [NOTICE PIH 2012-4]

DHC must immediately terminate the lease following the death of the sole family member. Refer to the Supplemental ACOP Policies for the specifics requirements related to the handling of the unit of a deceased resident.

13-II.J. OVER_INCOME FAMILIES [24 CFR 960.507; FR NOTICE 7/26/18; NOTICE PIH 2023-03; FR NOTICE 2/14/23]

In the public housing program, an over-income family is defined as a family whose income exceeds the over-income limit for 24 consecutive months. When this occurs, the PHA must either:

- Terminate the family's tenancy within six months of the PHA's final notification of the end of the 24-month grace period; or
- Within 60 days of the PHA's final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.

All PHAs, regardless of size, must implement over-income policies. However, if a PHA owns or operates fewer than 250 public housing units and admits families whose annual income exceeds the low-income limit because there are no income-eligible families on the PHA's waiting list in accordance with 24 CFR 960.503, the over-income limit regulation does not apply to tenant families [24 CFR 950.503]. This regulation is unrelated to HOTMA 103 [24 CFR 960.507]. This is because these families are considered unassisted tenants are not participants in the public housing program.

PHA Policy

For families whose income exceeds the over-income limit for 24 consecutive months, DHC will not terminate the family's tenancy and will charge the family the alternative non-public housing rent, as well as require the family to sign a new non-public housing lease in accordance with the continued occupancy policies below.

Over-Income Limit [Notice PIH 2023-03]

The PHA must publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size. When determining whether a family is over-income, the PHA must use the applicable income limit for the current number of family members, not including

any household members. Further, the over-income limit is based on the family's annual income, rather than their adjusted income.

PHA Policy

DHC will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.

Family Size	1	2	3	4	5	6	7	8
Over-Income Limit	$79,560	$90,960	$102,360	$113,640	$122,760	$131,880	$141,000	$150,120

For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.

Decreases in Income **[24 CFR 960.507(c)(4)]**

If, at any time during the consecutive 24-month period following the initial over-income determination, the PHA determines that the family's income is below the over-income limit, the PHA's over-income policies no longer apply to the family. If the PHA later determines that the family's income exceeds the over-income limit at a subsequent annual or interim reexamination, the family is entitled to a new 24 consecutive month period and new notices under this section.

PHA Policy

If, at any time during the 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with DHC policy in Chapter 9.

If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. DHC will notify the family in writing within 10 business days of the determination that over-income policies no longer apply to them.

Initial Notice of Over-Income Status **[24 CFR 960.507(c)(1); Notice PIH 2023-03]**

The PHA is required to provide over-income families with three notifications within 30 days of the following points: at the initial determination when a family's income first exceeds the limit, at 12 months after the family continues to exceed the limit, and at 24 months of continuously exceeding the limit. If

proper notice is not given, the PHA is required to continue to allow the family to stay in the unit until all three notices have been given.

If the PHA determines the family has exceeded the over-income limit during an annual or interim reexamination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the PHA's initial over-income determination. The 24 consecutive month grace period begins on the date the PHA notifies the family (for example, the post date of the notice).

The notice must state that the family has exceeded the over-income limit and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-1 and 13-2 provide sample initial notices based on HUD's model notices.

PHA Policy

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 10 business days of the determination, DHC will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to DHC's over-income policies. The notice will state that the family may request a hearing if the family disputes the DHC's determination in accordance with DHC policies in Chapter 14. DHC will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

Second Notice of Over-Income Status **[24 CFR 960.507(c)(2); Notice PIH 2023-03; Notice PIH 2023-27]**

The PHA must conduct an income examination 12 months after the initial over-income determination, even if the family is paying flat rent, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. This includes when the PHA makes an initial determination that a family is over-income during an interim reexamination. In this case the PHA must conduct a second interim reexamination 12 months after the over-income determination unless the family's income falls below the over-income limit during the 24-month period. See Chapter 9 for PHA policies on interims for over-income families.

If the PHA determines the family continues to exceed the over-income limit for 12 consecutive months, the PHA must provide written notification of this 12-month over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result

in the PHA following its continued occupancy policy for over-income families. Additionally, if applicable under PHA policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-3 and 13-4 provide sample 12-month notices based on HUD's model notices.

PHA Policy

If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, within 10 business days of the determination, DHC will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to DHC's over-income policies. The notice will provide an estimate of the alternative non-public housing rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes the DHC's determination in accordance with PHA policies in Chapter 14. DHC will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

Final Notice of Over-Income Status **[24 CFR 960.507(c)(3) and 960.509; Notice PIH 2023 03; Notice PIH 2023-27]**

Unless the PHA determined the family's income fell below the over-income limit since the second over-income determination, the PHA must conduct an income examination 24 months after the initial over income determination, even if the family is paying flat rent. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct an interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

If the family continues to be over-income based on this determination, the PHA must provide written notification of this determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 24 consecutive months and that the PHA will follow its continued occupancy policies for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. However, the 24-month grace period does not restart if required notices do not include grievance rights. Exhibits 13-5 and 13-6 provide sample 24-month notices based on HUD's model notices.

PHA Policy

If a family's income exceeds the applicable over-income limit for 24 consecutive months, DHC will notify the family in writing of the determination within 10 business days of the date of the determination. DHC will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments. The notice will state that the family will be charged the alternative non-public housing rent in accordance with DHC continued occupancy policies and HUD regulations and provide the family's new rent amount.

The notice will also include a new non-public housing lease and inform the family that the lease must be executed by the family and DHC no later than 60 days from the date of the notice or at the next lease renewal, whichever is sooner. The family will continue to be a public housing program participant until the family executes the new non-public housing lease. The notice will also state that failure to execute the lease within the time period stated in the notice will result in termination of tenancy no more than six months after the date of the notice. DHC will permit an over-income family to execute a lease beyond this time period, but before termination of tenancy, if the over-income family pays DHC the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income family was required to execute the new lease.

Once the family signs the new non-public housing lease, the family will no longer be a public housing participant family. The family will no longer be subject to income examinations, are precluded from participating in the resident council, and cannot participate in any programs that are only for public housing or low-income families. DHC will not provide such families with hearing or grievance rights. Units occupied by NPHOI families continue to be part of the public housing inventory and are required to be inspected in the same way as units occupied by families in the public housing program. Further, NPHOI families are still required to abide by the PHA's smoke-free policies as well as the PHA's pet rules. NPHOI families are not entitled to VAWA protections as prescribed in HUD regulations but may be entitled to protections under state and local law.

The non-public housing over-income (NPHOI) lease will contain all required provisions listed at 24 CFR 960.509. The initial term of the lease will be for one (1) year. Upon expiration of the initial lease term, the lease will not renew automatically, and subsequent leases will state renewal terms. At any time, DHC may terminate tenancy in accordance with 24 CFR 960.509(b)(11) and in accordance with state and local law.

Upon execution of the lease, the tenant will be required to pay the amount of monthly tenant rent (known as the alternative non-public housing rent) determined by DHC in accordance with HUD

regulations. DHC will comply with state and local law in giving the tenant written notice stating any changes in the amount of tenant rent. Charges assessed under the lease will be due in accordance with state and local law.

NPHOI families will not receive a utility allowance. The family will be responsible for their utilities where utilities are individually metered. Where utilities are not individually metered, the NPHOI family will be charged an allocation of the total energy plus any surcharges with no utility allowance.

If an NPHOI family subsequently experiences a decrease in income after signing the NPHOI lease, the family may only be readmitted to the public housing program if they once again become an eligible low-income family and reapply to the public housing program. The family will continue to pay the alternative rent until they are readmitted to public housing.

PART III: TERMINATION BY DHC – OTHER AUTHORIZED REASONS

13-III.A. OVERVIEW

Besides requiring DHC to terminate the lease under the circumstances described in Part II, HUD requires DHC to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require DHC to terminate for such violations in all cases. DHC has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and

DHC may, as an alternative to termination, require the exclusion of the culpable household member. DHC must make policy decisions concerning these options.

In addition, HUD authorizes DHC to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or that are for other good cause. DHC must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of DHC's lease. In the development of the terms of the lease, DHC must consider the limitations imposed by state landlord-tenant law, as well as HUD regulations and federal statutes. Because of variations in state and local landlord-tenant law, and because HUD affords PHAs wide discretion in some areas, a broad range of policies could be acceptable.

The PHA also has the option to terminate the tenancies of certain over-income families (See 13-II.J).

DHC, with some restrictions, also has the option to terminate the tenancies of families who are over income. DHC may consider alternatives to termination and must establish policies describing the criteria DHC will use when deciding what action to take, the types of evidence that will be acceptable, and the steps DHC must take when terminating a family's lease.

13-III.B. MANDATORY LEASE PROVISIONS [24 CFR 966.4(L)(5)]

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required,

HUD does not require DHC to terminate for such violations in all cases, therefore DHC policies are needed.

Definitions [24 CFR 5.100]

The following definitions will be used for this and other parts of this chapter:

Affiliated individual is defined in section 16-VII.B.

Covered person means a resident, any member of the resident's household, a guest, or another person under the resident's control.

Dating violence is defined in section 16-VII.B.

Domestic violence is defined in section 16-VII.B.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act.

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

Guest means a person temporarily staying in the unit with the consent of a resident or other member of the household who has express or implied authority to so consent on behalf of the resident.

Household means the family and DHC-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit.

Immediate family member is defined in section 16-VII.B.

Other person under the resident's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the resident or other member of the household who has express or implied authority to so consent on behalf

of the resident. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the resident's control.

Premises mean the building or complex or development in which the dwelling unit is located, including common areas and grounds.

Sexual assault is defined in section 16-VII.B.

Stalking is defined in section 16-VII.B.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause or be reasonably likely to cause serious bodily injury or property damage.

Drug Crime On or Off the Premises **[24 CFR 966.4(l)(5)(i)(B)]**

PHA Policy

DHC will terminate the lease for drug-related criminal activity engaged in on or off the premises by any resident, member of the resident's household or guest, and any such activity engaged in on the premises by any other person under the resident's control.

DHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity. A conviction for a drug-related crime is not required before DHC can evict.

A record of arrest(s) will not be used as the sole basis for the termination or proof that a covered person engaged in disqualifying criminal activity.

In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, DHC may, on a case-by-case basis, choose not to terminate the lease.

Illegal Use of a Drug

The lease must provide that DHC may evict a family when DHC determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

PHA Policy

DHC will terminate the lease when DHC determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months.

DHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs. A conviction for a drug-related crime is not required before DHC can evict.

A record of arrest(s) will not be used as the sole basis for the termination or proof that a member of the household engaged in disqualifying criminal activity.

In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the DHC may, on a case-by-case basis, choose not to terminate the lease.

Threat to Other Residents **[24 CFR 966.4(l)(5)(ii)(A)]**

PHA Policy

DHC will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents, or by persons residing in the immediate vicinity of the premises.

Immediate vicinity means within a three-block radius of the premises.

DHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity. A conviction for criminal activity is not required before DHC can evict.

A record of arrest(s) will not be used as the sole basis for the termination or proof that a covered person engaged in disqualifying criminal activity.

In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, DHC may, on a case-by-case basis, choose not to terminate the lease.

Alcohol Abuse [24 CFR 966.4(l)(5)(vi)(A)]

PHA Policy

DHC will terminate the lease if DHC determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or DHC staff.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months.

DHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol. A conviction for an alcohol-related crime is not required before DHC can evict.

A record of arrest(s) will not be used as the sole basis for the termination or proof that a household member engaged in disqualifying criminal activity.

In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the DHC may, on a case-by-case basis, choose not to terminate the lease.

Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation [24 CFR 966.4(l)(5)(vi)(B)]

PHA Policy

DHC will terminate the lease if DHC determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

DHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers. A conviction for a crime is not required before DHC can evict.

In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the DHC may, on a case-by-case basis, choose not to terminate the lease.

Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions [24 CFR 966.4(l)(2)(i) and 24 CFR 966.4(f)]

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. Incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking [24 CFR 5.2005(c)(1)].

PHA Policy

DHC will terminate the lease for the following violations of resident obligations under the lease:

Failure to make payments due under the lease, including non-payment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of charges due under the lease, with the exception of nonpayment of rent. Four late payments within a 12-month period shall constitute repeated late payment.

Failure to fulfill the following household obligations:

Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

Not to provide accommodations for boarders or lodgers.

To use the dwelling unit solely as a private dwelling for the resident and the resident's household as identified in the lease, and not to use or permit its use for any other purpose.

To abide by necessary and reasonable policies and regulations promulgated by DHC for the benefit and well-being of the housing development and the residents, which shall be posted in the development office and incorporated by reference in the lease.

To comply with all obligations imposed upon residents by applicable provisions of building and housing codes materially affecting health and safety.

To keep the dwelling unit and such other areas as may be assigned to the resident for the resident's exclusive use in a clean and safe condition.

To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner.

To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators.

To refrain from, and to cause the household members and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or development including buildings, facilities, common areas and grounds areas.

To pay reasonable charges, other than for normal wear and tear, for the repair of damages to the dwelling unit, or to the development, including damages to development buildings, facilities, or common areas, caused by the resident, a member of the household or a guest.

To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the development in a decent, safe, and sanitary condition.

In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, DHC may, on a case-by-case basis, choose not to terminate the lease.

13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION [24 CFR 966.4(L)(2) AND (5)(II)(B)]

HUD authorizes DHC to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."

Other Good Cause [24 CFR 966.4(l)(2)(ii)(B) and (C)]

HUD regulations state that DHC may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit DHC to only those examples. The Violence Against Women Act explicitly prohibits DHC from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking as "other good cause" for terminating the assistance, tenancy or occupancy rights of the victim or threatened victim of such violence.

PHA Policy

DHC shall terminate the lease if any member of the household, during their current public housing tenancy, becomes subject to a lifetime registration requirement under a state sex offender registration program.

PHA Policy

DHC may terminate the lease for the following reasons:

- *Fugitive Felon or Parole Violator*: If a resident is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or violating a condition of probation or parole imposed under federal or state law.
- Discovery after admission of facts that made the resident ineligible for admission.
- Discovery of materially false statements or fraud by the resident in connection with an application for assistance or with a reexamination of income.
- Failure to furnish such information and certifications regarding family composition and income as may be necessary for DHC to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size.
- Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by DHC that such a dwelling unit is available.
- Failure to permit access to the unit by DHC after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists.
- Failure to promptly inform DHC of the birth, adoption, or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.
- Failure to abide by the provisions of DHC's pet policy.
- Failure to abide by the provisions of DHC's smoke-free policy. Failure to abide by the provisions of DHC's weapons policy.
- If the family has breached the terms of a Repayment Agreement entered into with DHC.
- If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.
- If a household member has engaged in or threatened violent or abusive behavior toward DHC personnel.

  Abusive or violent behavior towards DHC personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

  Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, DHC may, on a case-by-case basis, choose not to terminate the lease.

Family Absence from Unit **[24 CFR 982.551(i)]**

PHA Policy

The family must supply any information or certification requested by DHC to verify that the family is living in the unit, or relating to family absence from the unit, including any DHC- requested information or certification on the purposes of family absences. The family must cooperate with DHC for this purpose.

The family must promptly notify DHC when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 14 calendar days. In such a case promptly means within 3 business days before the start of the extended absence.

If a family is absent from the public housing unit for more than 60 consecutive days, DHC will terminate the lease for other good cause. If within the 60-day period the unit is vandalized, the family will be charged for the repair of the unit and a Repayment Agreement may be authorized by the Executive Director.

Abandonment: If the family appears to have vacated the unit without giving proper notice, DHC will follow state landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, DHC will secure the unit immediately to prevent vandalism and other criminal activity.

Asset Limitation ***[24 CFR 5.618; Notice PIH 2023-27]***

The PHA has discretion with respect to the application of the asset limitation at annual and interim reexamination. The PHA may adopt a written policy of total nonenforcement, enforcement, or limited enforcement as well as adopting exception policies.

PHA Policy

The PHA has adopted a policy of total nonenforcement of the asset limitation for all program participants. The asset limitation only applies to initial eligibility determinations for new admissions to the PHA's public housing program.

13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY

Exclusion of Culpable Household Member [24 CFR 966.4(l)(5)(vii)(C)]

As an alternative to termination of the lease for criminal activity or alcohol abuse, DHC may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with DHC policy.

Additionally, under the Violence Against Women Act, DHC may bifurcate a lease in order to terminate the tenancy of an individual who is a resident or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

PHA Policy

DHC will consider requiring the resident to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The head of household must present evidence of the former household member's current address upon DHC request. In most cases DHC will require original documents to be submitted as proof the family member has left the household. Additionally, DHC may require third-party verification.

Repayment of Family Debts

PHA Policy

If a family owes amounts to DHC, as a condition of continued occupancy, DHC will require the family to repay the full amount or to enter into a Repayment Agreement, within 30 days of receiving notice from DHC of the amount owed. See Chapter 16 for policies on Repayment Agreements.

13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY

If DHC has grounds to terminate a tenancy, it is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

Evidence [24 CFR 982.553(c)]

DHC will consider all credible evidence in making termination decisions.

Consideration of Circumstances [24 CFR 966.4(l)(5)(vii)(B)]

PHA Policy

DHC will consider the following facts and circumstances before deciding whether to terminate the lease:

The seriousness of the offending action, especially with respect to how it would affect other residents' safety or property, or staff.

The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or, as discussed further in section 13-III.F, a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

The effects that the eviction will have on other family members who were not involved in the action or failure to act.

The effect on the community of the termination, or of DHC's failure to terminate the tenancy.

The effect of DHC's decision on the integrity of the public housing program.

The demand for housing by eligible families who will adhere to lease responsibilities.

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action.

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history, and the likelihood of favorable conduct in the future.

While a record of arrest(s) will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether a household member or guest actually engaged in disqualifying criminal activity. As part of its investigation, DHC may obtain the police report associated with the arrest and consider the reported circumstances of the arrest.

DHC may also consider:

1. Any statements made by witnesses, or the alleged perpetrator not included in the police report
2. Whether criminal charges were filed
3. Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

4. Any other evidence relevant to determining whether or not the alleged perpetrator engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

In the case of program abuse, the dollar amount of the under-paid rent and whether or not a false certification was signed by the family.

Consideration of Rehabilitation **[24 CFR 966.4(l)(5)(vii)(D)]**

PHA Policy

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, DHC will consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

For this purpose, DHC will require the resident to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

Reasonable Accommodation **[24 CFR 966.7]**

PHA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, DHC will determine whether the behavior is related to the disability. If so, upon the family's request, DHC will determine whether alternative measures are appropriate as a reasonable accommodation. DHC will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Non-discrimination Limitation **[24 CFR 966.4(l)(5)(vii)(F)]**

DHC's eviction actions must be consistent with fair housing and equal opportunity requirements.

13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING

This section addresses the protections against termination of tenancy that the Violence Against Women Act (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For general VAWA requirements and DHC policies pertaining to notification, documentation, emergency transfers and confidentiality see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

VAWA Protections against Termination [24 CFR 5.2005(c)]

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a resident on the basis or as a direct result of criminal activity directly relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking that is engaged in by a member of the household of the resident or any guest or other person under the control of the resident, if the resident or an affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, stalking, or human trafficking.

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed either as serious or repeated violations of the lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim or threatened victim of such violence.

Limits on VAWA Protections [24 CFR 5.2005(d) and (e), FR Notice 8/6/13]

While VAWA prohibits DHC from using domestic violence, dating violence, sexual assault, stalking, or human trafficking as the cause for a termination or eviction action against a public housing resident who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit DHC's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking provided that DHC does not subject the victim to a more demanding standard than the standard to which it holds other residents.
- VAWA does not limit DHC's authority to terminate the tenancy of any public housing resident if DHC can demonstrate an actual and imminent threat to other residents or those employed at or providing service to the property if that resident's tenancy is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm.

In determining whether an individual would pose an actual and imminent threat, the factors to be considered include, but are not limited to:

- The duration of the risk.
- The nature and severity of the potential harm.
- The likelihood that the potential harm will occur.
- The length of time before the potential harm would occur.

In order to demonstrate an actual and imminent threat, DHC must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, DHC may terminate the victim's assistance only when there are no other actions that could be taken to reduce or eliminate the threat, including but not limited to transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat." Restrictions "predicated on public safety cannot be based on stereotypes but must be tailored to particularized concerns about individual residents."

PHA Policy

In determining whether a public housing tenant or an affiliated individual who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking is an actual and imminent threat to other residents or those employed at or providing service to a property, the DHC will consider the following, and any other relevant, factors:

1. Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking
2. Whether the threat is a physical danger beyond a speculative threat
3. Whether the threat is likely to happen within an immediate time frame
4. Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the resident wishes to contest DHC's determination that he or she is an actual and imminent threat to other residents or employees, the resident may do so as part of the grievance hearing or in a court proceeding.

Documentation of Abuse [24 CFR 5.2007]

PHA Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking claims protection under VAWA, DHC will request in writing that the individual provide documentation supporting the claim in accordance with the policies in section 16-VII.D of this ACOP.

DHC reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases DHC will document the waiver in the individual's file.

Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives DHC the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, or terminate assistance to any individual who is a resident or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a resident or lawful occupant of the housing" [24 CFR 5.2009(a)]. Moreover, HUD regulations impose on the DHC the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, or stalking [24 CFR 966.4(e)(9)].

Specific lease language affirming the DHC's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if the DHC chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that the DHC must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [3/16/07 Federal Register notice on the applicability of VAWA to HUD programs]. DHC must not initiate eviction procedures until 30 days after the lease bifurcation.

PHA Policy

DHC will bifurcate a family's lease and terminate the tenancy of a family member if DHC determines that the family member has committed criminal acts of physical violence against other family

members or others. This action will not affect the tenancy or program assistance of the remaining, non-culpable family members.

In making its decision, DHC will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to DHC by the victim in accordance with this section and section 16-VII.D. DHC will also consider the factors in section 13.III.E. Upon such consideration, DHC may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If DHC does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If the person removed from the lease was the only resident eligible to receive assistance, DHC must provide any remaining resident a chance to establish eligibility for the unit. If the remaining resident cannot do so, DHC must provide the resident reasonable time to find new housing or to establish eligibility for another housing program covered by VAWA 2022.

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

13-IV.A. OVERVIEW

This part discusses the specific requirements that precede and follow termination for certain criminal activities. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(E)(II) AND 24 CFR 960.259]

PHA Policy

DHC may conduct criminal records checks during the annual reexamination process or when it has come to the attention of the DHC, either from local law enforcement or by other means that an individual has engaged in the destruction of property, engaged in violent activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

DHC may not pass along to the resident the costs of a criminal records check.

13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(F), 24 CFR 5.905(D) AND 24 CFR 966.4(L)(5)(IV)]

PHA Policy

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, DHC will notify the household in writing of the proposed adverse action and will provide the subject of the record and the resident a copy of such information upon request and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken. The family will be given 10 business days from the date of DHC notice, to dispute the accuracy and relevance of the information. If the family does not contact DHC to dispute the information within that 10-business day period, DHC will proceed with the termination action.

Should the resident not exercise his/her right to dispute before any adverse action, the resident still has the right to dispute in the grievance hearing or court.

13-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(L)(3); NOTICE PIH 2021-29]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and the right to examine DHC documents directly relevant to the termination or eviction. If the PHA does not make the documents available for examination upon request by the tenant, the PHA may not proceed with the eviction. Notices of lease termination must be provided in accessible formats to ensure effective communication for individuals with disabilities, and the notice must provide meaningful access for persons with LEP.

PHA Policy

All notices of lease termination due to a tenant's failure to pay rent must also include:

- Instructions on how the tenant can cure the nonpayment of rent violation, including:
  - An itemized amount separated by month of alleged rent owed by the tenant;
  - Any other arrearages allowed by HUD and included in the lease separated by month; and
  - The date by which the tenant must pay the amount of rent owed before an eviction for nonpayment of rent can be filed;

- Information on how the tenant may recertify their income, request a minimum rent hardship exemption, or a request to switch from flat rent to income-based rent; and
- In the event of a Presidential declaration of a national emergency, information as required by HUD.

For notices of lease termination due to a tenant's failure to pay rent, the PHA must not provide tenants with a termination notice prior to the day after the rent is due according to the lease. The PHA must not proceed with filing an eviction if the tenant pays the alleged amount of rent owed within the 30-day notification period [24 CFR 966.4(r)].

If the tenant pays the full amount of the alleged rent owed but not the arrearages, the nonpayment will still be considered cured, and an eviction for nonpayment of rent cannot be filed. However, HUD emphasizes that the protections in this rule do not apply to other types of evictions that result from non-rent lease violations, such as nonpayment of arrearages if allowed under the lease.

HUD also suggests the termination notice advise individuals of their right to request reasonable accommodations, include information on how individuals with disabilities can request a reasonable accommodation, and include a point of contact for reasonable accommodation requests.

PHA Policy

The notice of lease termination will include information on how the family may request a reasonable accommodation for persons with disabilities and provide contact information for the PHA's 504 coordinator.

When DHC is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of his/her right to request a hearing in accordance with DHC's grievance procedure. In these cases, the tenancy shall not terminate until the time for the resident to request a grievance hearing has expired and the grievance procedure has been completed.

When applicable, the notice will also state that the resident may request a remote hearing.

If the PHA will require that the hearing be conducted remotely, at the time the notice is sent to the resident informing them of the right to request a hearing, the resident will be notified that the hearing will be conducted remotely. The resident will be informed of the processes involved in a remote hearing and that the PHA will provide technical assistance, if needed, before the hearing.

When DHC is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug related criminal activity, the notice of lease termination must state that the resident is not entitled to a grievance hearing on the termination and must also state

whether the eviction is for criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of DHC, or for drug-related criminal activity on or off the premises.

DHC will attempt to deliver notices of lease termination directly to the resident or an adult member of the household. If such attempt fails, the notice will be sent by first class mail.

All notices of lease termination will be accompanied by a copy of the forms HUD-5382 and HUD-5380. Any resident who claims that the cause for termination involves domestic violence, dating violence, sexual assault or stalking of which the resident or an affiliated individual of the resident is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

Timing of the Notice **[24 CFR 966.4(l)(3)(i); 24 CFR 966.8; Notice PIH 2021-29]**

DHC must give written notice of lease termination of:

1. At least 30 calendar days in the case of failure to pay rent.
2. A reasonable period of time considering the seriousness of the situation but not to exceed 30 calendar days:
    a. If the health or safety of other residents, DHC employees, or persons residing in the immediate vicinity of the premises is threatened.
    b. If any member of the household has engaged in any drug-related criminal activity or violent criminal activity.
    c. If any member of the household has been convicted of a felony
3. 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply.

PHA Policy

The PHA will give written notice of 30 calendar days from the date the tenant receives the notice for nonpayment of rent, which will not be provided to tenants until the day after the day rent is due. For all other lease terminations, the PHA will give 30 days written notice or, if state or local law allows less than 30 days, such shorter notice will be given.

The Notice to Vacate that may be required under state or local law may be combined with (run concurrently) or may run consecutive to the notice of lease termination.

PHA Policy

Any Notice to Vacate or Notice to Quit that is required by state or local law will ***[insert either "be combined with" or "run consecutive to"]*** with the Notice of Lease Termination under this section.

Notice of Non-renewal Due to Community Service Non-compliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When DHC finds that a family is not in compliance with the community service requirement, the head of household and any other non-compliant resident must be notified in writing of this determination. Notices of non-compliance will be issued in accordance with the requirements and policies in Section 11-I.E.

PHA Policy

If after receiving a notice of initial non-compliance the family does not request a grievance hearing or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial non-compliance by signing an agreement and is still in non-compliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued non-compliance. The notice of continued non-compliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and the family's right to request an informal hearing with DHC either upon completion of the USCIS appeal or in lieu of the USCIS appeal. See Chapter 14 for DHC's informal hearing procedures.

13-IV.E. EVICTION [24 CFR 966.4(L)(4) AND 966.4(M)]

PHA Policy

When a family does not vacate the unit after receipt of a termination notice, by the deadline given in the notice, DHC will follow state landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, DHC will seek the assistance of the court to remove the family from the premises as per state law.

DHC may not proceed with an eviction action if DHC has not made available the documents to be used in the case against the family and has not afforded the family the opportunity to examine and copy such documents.

13-IV.F. NOTIFICATION TO POST OFFICE [24CFR 966.4(L)(5)(III)(B)]

When DHC evicts an individual or family for criminal activity, including drug-related criminal activity, DHC must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

13-IV.G. RECORD KEEPING

For more information concerning general record keeping see Chapter 16.

PHA Policy

A written record of every termination and/or eviction will be maintained by DHC and will contain the following information:

- Name of resident, number and identification of unit occupied;
- Date of the notice of lease termination and any other notices required by state law;
- Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail;
- Date and method of notifying the resident; and
- Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions.
- If the resident moved out owing a debt to DHC, or if there was another adverse reason which resulted in a move out, e.g., eviction, abandonment, criminal activity, etc., DHC shall

report the amount owed and/or adverse reason for termination in HUD's EIV System via the Debts Owed to PHAs and Terminations Report. DHC will also use all available resources to collect the debt owed.

CHAPTER 14: GRIEVANCES AND APPEALS

INTRODUCTION

This chapter discusses grievances and appeals pertaining to DHC actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Non-citizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and resident grievances.

Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS

14-I.A. OVERVIEW

When DHC denies admission to an applicant, the applicant may appeal the decision.

For applicants, the appeal takes the form of an informal hearing. This part discusses DHC policies necessary to respond to the appeals of applicants through the informal hearing process.

14-I.B. INFORMAL HEARING PROCESS [24 CFR 960.208(A) AND PH OCC GB, P. 58]

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program but is not yet a resident in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to the program. Applicants for public housing are not entitled to the same hearing process afforded residents.

Informal hearings provide the applicant a means to review the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available, and to claim mitigating circumstances, if possible.

Use of Informal Hearing Process

PHA Policy

DHC will only offer informal hearings to applicants for the purpose of disputing denials of admission.

Notice of Denial [24 CFR 960.208(a)]

PHA Policy

DHC must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for DHC's decision and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing and that an applicant with a disability may request a reasonable accommodation. The notice should also state that the applicant may request interpretation or translation assistance.

When denying eligibility for admission, DHC must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD5382) in accordance with the Violence

Against Women Act, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Before notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3III.G for details concerning this requirement.

Scheduling an Informal Hearing

PHA Policy

A request for an informal hearing must be made in writing and delivered to DHC either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of DHC's notification of denial of admission.

DHC will schedule and send written notice of the informal hearing date within 10 business days of the family's request.

Conducting an Informal Hearing [PH Occ GB, p. 58]

PHA Policy

The informal hearing will be conducted by a person appointed by the Executive Director or her designee who is a person other than the one who made or approved the decision under review, or a subordinate of that person. This person may be a person affiliated with DHC or may be a qualified outside person.

The applicant will be provided an opportunity to present written or oral objections to DHC's decision.

The applicant may bring to the meeting any documentation or evidence s/he wishes and the evidence along with the data compiled by DHC will be considered by the person conducting the informal hearing.

The person conducting the informal hearing will make a determination based upon the merits of the evidence presented by both sides. Within 10 business days of the date of the review, the person conducting the informal hearing will mail a written decision to the applicant and place a copy of the decision in the applicant's file. A copy of the written decision will also be provided to DHC.

The Grievance Procedures for public housing residents do not apply to DHC determinations that affect applicants.

Informal Hearing Decision

In making a decision, the person conducting the informal hearing will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice. If not, this is not grounds to overturn the decision to deny admission. Rather, the person conducting the informal hearing shall inform DHC of the deficiency and DHC shall issue a corrected notice.

The validity of grounds for denial of admission: If the grounds for denial are not specified in the regulations or in DHC policy, then DHC's decision to deny admission should be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial of admission.

The validity of the evidence: Whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the denial must be upheld.

If the facts prove the grounds for denial, and the denial is discretionary, the person conducting the informal hearing may not overrule DHC's exercise of discretion. The person conducting the informal hearing will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, within 10 business days of the informal hearing, to the applicant and his or her representative, if any.

If the denial is overturned as a result of the informal hearing, processing for admission will resume.

If the family fails to appear for the informal hearing, the denial of admission will stand, and the family will be so notified. DHC may offer an additional hearing if the applicant contacts DHC regarding a scheduling conflict before the hearing or as a reasonable accommodation for a person with a disability. The applicant may only receive one new hearing date.

Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and DHC must consider such accommodations. DHC must also

consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

PART II: INFORMAL HEARINGS WITH REGARD TO NON-CITIZENS

14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while DHC's hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or DHC's informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for non-citizens must advise the family of any of the following that apply:

That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.

The family may be eligible for pro-ration of assistance.

In the case of a resident, the criteria, and procedures for obtaining relief under the provisions for preservation of families.

That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.

That the family has a right to request an informal hearing with DHC either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When DHC receives notification that the USCIS secondary verification failed to confirm eligible immigration status, then DHC will notify the family of the results of the USCIS verification within 10 business days of receiving the results. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The family must provide DHC with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The USCIS will notify the family, with a copy to DHC, of its decision. If the USCIS notifies DHC that the appeal is denied, DHC must notify the family of its right to request an informal hearing with DHC.

DHC will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision denying the family's appeal.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that DHC provide a hearing. The request for a hearing must be made either within 30 days of receipt of DHC notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

DHC must provide an informal hearing before an impartial individual, other than the person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. This individual shall be appointed by the Executive Director or designee.

Evidence

The family must be provided the opportunity to examine and copy, at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of DHC pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

PHA Policy

The family will be allowed to copy any documents related to the hearing at the same cost DHC charges for documents under the Michigan Freedom of Information Act. The family must request discovery of DHC documents no later than 12:00 p.m. on the business day before the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by DHC, and to confront and cross-examine all witnesses on whose testimony or information DHC relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. DHC is obligated to provide a competent interpreter, free of charge, upon request. The family may also or instead provide its own interpreter, at the expense of the family.

Recording of the Hearing

PHA Policy

DHC will record the hearing. However, DHC is not required to provide a transcript of the hearing but will make available a copy of the audio tape or file at the resident's expense.

Hearing Decision

DHC must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 business days of the date of the informal hearing. The notice must state the basis for the decision.

Retention of Documents [24 CFR 5.514(h)]

DHC must retain, for a minimum of five (5) years, the following documents that may have been submitted to DHC by the family, or provided to DHC as part of the USCIS appeal or DHC's informal hearing process:

1. The application for assistance
2. The form completed by the family for income reexamination
3. Photocopies of any original documents, including original USCIS documents
4. The signed verification consent form

5. The USCIS verification results
6. The request for a USCIS appeal
7. The final USCIS determination
8. The request for an informal hearing
9. The final informal hearing decision

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that DHC provide a hearing. The request for a hearing must be made either within 30 days of receipt of DHC's notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.

PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS

14-III.A. REQUIREMENTS [24 CFR 966.52]

DHC's grievance procedure will be incorporated by reference in the resident lease.

Residents and resident organizations will have 30 calendar days from the date they are notified by DHC of any proposed changes in DHC grievance procedure, to submit written comments to DHC. Comments submitted must be considered by DHC before DHC adopts any grievance procedure changes.

DHC must furnish a copy of the grievance procedure to each resident and to resident organizations.

14-III.B. DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(A)(2)(I)]

Grievance: Any dispute a Resident may have with respect to DHC action or failure to act in accordance with the individual Resident's lease or DHC regulations that adversely affects the individual Resident's rights, duties, welfare, or status.

CFR: The Code of Federal Regulations, which contains the Federal guidelines governing this Grievance.

Complainant: Any Resident (as defined below) whose grievance is presented to DHC (at the central office or the development office) in accordance with the requirements presented in this procedure.

Due Process Determination: A determination by HUD that law of the jurisdiction requires that the resident must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit.

Drug-related criminal activity: The illegal manufacture, sale, use or possession with intent to manufacture, sell, distribute, or use a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. sec. 802) as from time to time amended.

Expedited Grievance: a procedure established by DHC for any grievance or termination that involves: Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of DHC's public housing premises by other residents or DHC employees; or Any drug-related criminal activity on or off the premises. DHC will allow expedited grievance procedures for any grievance concerning a termination of tenancy or eviction that involves any health hazard

Hearing Officer/Panel: An impartial person or persons selected by DHC, other than the person who made or approved the decision under review, or a subordinate of that person. The individual or individuals do not need legal training.

Promptly: Shall mean within the time period indicated in the notice from the Detroit Housing Commission of a proposed action that would provide the basis for a Grievance if the Resident has received a notice of a proposed action from DHC.

Resident: The adult person (or persons other than a Live-in aide): (1) who resides in the unit, and who executed the lease with DHC as lessee of the dwelling unit, or, if no such person now resides in the unit, who resides in the unit, and (2) who is the remaining head of the household of the Resident family residing in the dwelling unit.

Resident Organization: An organization of residents, which also may include a Resident Management Corporation.

14-III.C. APPLICABILITY [24 CFR 966.51]

The grievance procedure is applicable to all individual resident issues between DHC and the resident.

It is not applicable to disputes between residents not involving DHC or to class grievances.

The grievance procedure is not to be used as a forum for initiating or negotiating DHC policy changes between a group or groups of residents and DHC. Since HUD has issued a due process determination for the State of Michigan, DHC excludes from the grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of DHC;
- Any violent or drug-related criminal activity on or off such premises; or
- Any criminal activity that resulted in felony conviction of a household member.

See Chapter 13 for related policies on the content of termination notices.

14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]

PHA Policy

Any grievance must be personally presented, either orally or in writing, within 10 business days of the event being grieved to the office of the development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

Within 10 business days of receipt of the request DHC will arrange a meeting with the resident at a mutually agreeable time and confirm such meeting in writing to the resident.

If a resident fails to attend the scheduled meeting without prior notice, DHC will reschedule the appointment only if the resident can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

DHC will prepare a summary of the informal settlement discussion within 10 business days. One copy of the summary will be given to the resident and one copy will be retained in the resident's file.

The summary must specify the names of the participants, date(s) of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore and will specify the procedures by which a hearing under 14-III.E. may be obtained if the complainant is not satisfied.

14-III.E. PROCEDURES TO OBTAIN A HEARING

Requests for Hearing and Failure to Request

Hearing Prerequisite

All grievances must be presented in accordance with the informal settlement process prescribed above as a condition precedent to a grievance hearing. However, if the complainant can show good cause for

failure to proceed with the informal settlement process to the hearing officer, the hearing officer may waive this provision.

Request for Hearing

The resident must submit a written request for a grievance hearing to DHC within 10 business days of the resident's receipt of the summary of the informal settlement discussion. If the last day of the period falls on a Saturday or Sunday, the last day will be the next business day.

The request must state: (i) The reason for the grievance; and (ii) The action or relief sought.

Failure to Timely Request a Hearing

If the resident does not timely request a hearing, DHC's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the resident of the right to contest DHC's action in an appropriate judicial proceeding.

Escrow Deposits

Before a hearing is scheduled in any grievance involving the amount of rent that DHC claims is due, the family must pay an escrow deposit to DHC. When a family is required to make an escrow deposit, the amount is the amount of rent DHC states is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit the family must deposit the same amount monthly until the family's complaint is resolved by decision of the hearing officer.

Per HUD regulation 24 CFR 966.5 10 business days(e)(2), DHC must waive the requirement for an escrow deposit where the family has requested a financial hardship exemption from minimum rent requirements or is grieving the effect of welfare benefits reduction in calculation of family income.

Unless DHC waives the requirement, the family's failure to make the escrow deposit will terminate the grievance procedure. A family's failure to pay the escrow deposit does not waive the family's right to contest DHC's disposition of the grievance in any appropriate judicial proceeding.

DHC will not waive the escrow requirement for grievances involving rent amounts except where required to do so by HUD regulation.

Scheduling of Hearings **[24 CFR 966.56(a)]**

PHA Policy

If the resident has complied with all requirements for requesting a hearing, within 10 business days of receiving the written request for a hearing, the hearing officer will schedule the hearing and

send written notice of the hearing to the resident and DHC that specifies the time, place and the procedures governing the hearing.

The resident may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing before the hearing date. At its discretion, DHC may request documentation of the "good cause" before rescheduling the hearing.

Expedited Grievance Procedure [24 CFR 966.52(a)]

DHC may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or DHC employees;
- Any drug-related criminal activity on or near such premises.

In such expedited grievances, the informal settlement of grievances as discussed in 14III.D is not applicable.

DHC may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

DHC will allow expedited grievance procedures for any grievance concerning a termination of tenancy or eviction that involves any health hazard.

The resident will have 2 business days after receipt of the Notice to Terminate Tenancy to file a written hearing request specifying the reason(s) for the grievance and the action sought from DHC. The hearing officer will have 3 business days to schedule the hearing and 3 business days to render a decision. All other aspects of the expedited grievance process shall be the same as for other grievances.

14-III.F. SELECTION OF HEARING OFFICER/PANEL [24 CFR 966.53(E)]

The grievance hearing must be conducted by an impartial person or persons appointed by DHC, other than the person who made or approved the action under review, or a subordinate of such person.

PHA Policy

DHC grievance hearings will be conducted by a single hearing officer or a hearing panel.

The Executive Director, or designee, shall nominate a slate of impartial persons to sit as hearing officers. Such persons may include DHC employees, professional mediators or arbitrators, or others. The initial slate of nominees should be at least 10 persons.

Nominees will be informed that they will be expected to disqualify themselves from hearing grievances that involve personal friends or grievances in which they have some personal or business interest.

14-III.G. PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]

Rights of Complainant

The complainant will be afforded a fair hearing which includes:

The opportunity to examine before the grievance hearing any DHC documents, including records and regulations that are directly relevant to the hearing. The resident will be allowed to copy any documents related to the hearing at, at the resident's expense, at the same cost DHC charges for documents under the Michigan Freedom of Information Act. The family must request discovery of DHC documents no later than three (3) business days before the hearing. If DHC does not make any document(s) available for examination upon request of the resident, DHC may not rely on the document at the grievance hearing.

1. The right to appear at the hearing and be represented by counsel, or other person chosen as the resident's representative and to have such person make statements on the resident's behalf. The counsel or other representative chosen by the resident will only be permitted to appear on behalf of the resident if the resident is physically present at the hearing unless the resident is not present as a result of a reasonable accommodation.
2. The right to a private hearing unless the resident requests a public hearing.
3. The right to present evidence and arguments in support of the resident's complaint, to controvert evidence relied on by DHC, and to confront and cross-examine all witnesses upon whose testimony or information DHC relies.
4. A decision based solely and exclusively upon the facts presented at the hearing.

Rights of DHC

Upon DHC's request, the resident must provide DHC the opportunity to review relevant documents. DHC may make copies of the documents at its expense. If the resident does not make documents available for

examination upon DHC's request, the resident may not rely on such documents at the hearing. DHC must request production of documents from the resident no later than 3 business days before the hearing.

Decision without Hearing

The hearing officer/panel may render a decision without proceeding with the hearing if the hearing officer/panel determines that the issue has been previously decided in another proceeding.

Failure to Appear

If the resident or DHC fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for not to exceed ten (10 business days) business days or may make a determination that the party has waived his/her right to a hearing. Both the resident and DHC must be notified of the determination by the hearing officer/panel. Provided, however, that a determination that the resident has waived his/her right to a hearing will not constitute a waiver of any right the resident may have to contest DHC's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a resident does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

If the resident does not appear at the scheduled time of the hearing, the hearing officer/panel will wait up to 30 minutes. If the resident appears within 30 minutes of the scheduled time, the hearing will be held. If the resident does not arrive within 30 minutes of the scheduled time, s/he will be considered to have failed to appear.

If the resident fails to appear and was unable to reschedule the hearing in advance, the resident must contact the hearing officer/panel within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer/panel will reschedule the hearing only if the resident can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

"Good cause" is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

General Procedures

At the hearing, the resident must first make a showing of an entitlement to the relief sought and thereafter DHC must sustain the burden of justifying its action or failure to act against which is the subject of the complaint.

The hearing must be conducted informally by the hearing officer/panel. DHC and the resident must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint and question any witnesses. In general, all evidence is admissible and may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the hearing officer/panel must be presented at the time of the hearing. There are four categories of evidence. a. Oral evidence: this is the testimony of live witnesses.

Documentary evidence: this is a writing which is relevant to the case, for example, a letter written to DHC. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: this is evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer/panel, such as a model, a chart or other diagram.

Real evidence: is a tangible item relating directly to the case.

Hearsay evidence: is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter.

Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer/panel's decision. If DHC fails to comply with the resident's discovery request to examine DHC documents before the grievance hearing, the hearing officer/panel will refuse to admit such evidence.

If the resident fails to comply with DHC's discovery request to examine resident documents before the grievance hearing, the hearing officer/panel will refuse to admit such evidence.

Other than the failure of either party to comply with a discovery request, the hearing officer/panel has the authority to overrule any objections to evidence.

The hearing officer/panel must require DHC, the resident, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer/panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

DHC is not required to provide a transcript of the hearing but will make an audio recording of the hearing. Upon request, DHC will provide a copy of the recording to the grievant at the grievant expense. DHC may provide a copy of the recording on a disk or electronically. Either party may have the proceedings transcribed by a certified court reporter at their own expense. If a certified court reporter is to be used,

the party ordering the certified court reporter must let the other party know at least one (1) business day before the grievance hearing. Any interested party may purchase a copy of the transcript.

Accommodations of Persons with Disabilities

DHC must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the resident is visually impaired, any notice to the resident which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of DHC's responsibilities pertaining to reasonable accommodation.

14-III.H. DECISION OF THE HEARING OFFICER/PANEL

The hearing officer/panel must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the resident and DHC.

DHC must retain a copy of the decision in the resident's folder. A copy of the decision, with all names and identifying references deleted, must also be maintained on file by DHC and made available for inspection by a prospective complainant, his/her representative, or the hearing officer/panel

In rendering a decision, the hearing officer/panel will consider the following matters:

DHC Notice to the Family: The hearing officer/panel will determine if the reasons for DHC's decision were factually stated in the notice.

Discovery: The hearing officer/panel will determine if the family was given the opportunity to examine any relevant documents in accordance with DHC policy.

Evidence to Support DHC's Decision: The evidence consists of the facts presented. Evidence is not conclusion, and it is not argument. The hearing officer will evaluate the facts to determine if they support the DHC's conclusion.

Validity of Grounds for Termination of Tenancy (when applicable): The hearing officer/panel will determine if the termination of tenancy is for one of the grounds specified in HUD regulations and/or

DHC policies. If the grounds for termination are not specified in the regulations or in compliance with DHC policies, then the decision of DHC will be overturned.

The hearing officer/panel will issue a written decision to the family and DHC no later than 30 business days after the hearing. The decision will contain the following information: Hearing information:

1. Name of the complainant
2. Date, time and place of the hearing
3. Name of the hearing officer/panel
4. Name of the DHC representative(s) at the hearing
5. Name of family representative, if any, at the hearing
6. Names of witnesses if any

Background: A brief, impartial statement of the reason(s) for the hearing and the date(s) on which the informal settlement discussion was held, who held it, and a summary of the results of the informal settlement discussion. Also, it is to include the date the complainant requested the grievance hearing.

Summary of the Evidence: The hearing officer/panel will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer/panel will include all findings of fact, based on a preponderance of the evidence. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer/panel will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold DHC's decision.

Order: The hearing decision will include a statement of whether DHC's decision is upheld or overturned. If it is overturned, the hearing officer/panel will instruct DHC to change the decision in accordance with the hearing officer/panel's determination. In the case of termination of tenancy, the hearing officer/panel will instruct DHC to restore the family's status.

Procedures for Further Hearing

The hearing officer/panel may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or

deadline ordered by the hearing officer/panel, the action of DHC will take effect and another hearing will not be granted.

Final Decision **[24 CFR 966.57(b)]**

The decision of the hearing officer/panel is binding on DHC which must take the action, or refrain from taking the action cited in the decision unless DHC's Executive Director or designee, determines within a reasonable time, and notifies the resident that the decision is invalid because:

The hearing officer/panel exceeded its authority because the grievance does not concern DHC action or failure to act in accordance with or involving the resident's lease or DHC policies which adversely affect the resident's rights, duties, welfare, or status; or

The decision of the hearing officer/panel is contrary to Federal, state, or local law, HUD regulations or requirements of the Annual Contributions Contract between HUD and DHC.

When DHC staff considers the decision of the hearing officer to be invalid due to the reasons stated above, they will immediately present the matter to the Executive Director or designee. The Executive Director or designee has 10 business days to consider the decision. If the Executive Director or designee decides to reverse the hearing officer/panel's decision, DHC will notify the resident within 30 business days of this decision.

A decision by the hearing officer/panel or the Executive Director or designee in favor of DHC or which denies the relief requested by the resident, in whole or in part, will not constitute a waiver of any rights the resident may have to judicial review in court.

CHAPTER 15: PROGRAM INTEGRITY

INTRODUCTION

DHC is committed to ensuring that funds made available to DHC are spent in accordance with HUD requirements.

This chapter covers DHC policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions. For purposes of this chapter the term error refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive, or mislead

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents DHC policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures DHC must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system at annual reexamination in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and residents with form HUD-52675, "Debts Owed to PHAs and Terminations"
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

PHA Policy

The PHA anticipates that the vast majority of families and PHA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the PHA's program is administered effectively and according to the highest ethical and legal standards, the PHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

- The PHA will provide each applicant and resident with a copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.
- The PHA will provide each applicant and resident with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, the PHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
- The PHA will require mandatory orientation sessions for all prospective residents either prior to or upon execution of the lease. The PHA will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the family representative will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.
- The PHA will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.
- PHA staff will be required to review and explain the contents of all HUD- and PHA-required forms prior to requesting family member signatures. The PHA will place

a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key PHA forms and form letters that request information from a family member.

- The PHA will provide each PHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.
- At every regular reexamination the PHA staff will explain any changes in HUD regulations or PHA policy that affect residents.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

15-I.B. DETECTING ERRORS AND PROGRAM ABUSE

Quality Control and Analysis of Data

PHA Policy

DHC will employ a variety of methods to detect errors and program abuse, including but not limited to:

Routinely use available sources of up-front income verification, from HUD's EIV system, to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

Independent Audits and HUD Monitoring

DHC will use the results reported in any independent auditor HUD monitoring report to identify potential program abuses as well as to assess the effectiveness of DHC's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

PHA Policy

DHC will encourage staff, residents, and the public to report possible program abuse.

15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When DHC Will Investigate

PHA Policy

DHC will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for DHC to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

DHC will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 960.259]

DHC may investigate possible instances of error or abuse using all available DHC and public records. If necessary, DHC will require applicant/resident families to give consent to the release of additional information.

Analysis and Findings

PHA Policy

DHC will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole show that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation DHC will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed DHC, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether DHC will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

PHA Policy

In the case of family-caused errors or program abuse, DHC will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, and (4) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

PHA Policy

DHC will inform the head of household in writing of its findings and remedies within 15 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which DHC determined the error or program abuse, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

PART II: CORRECTIVE MEASURES AND PENALTIES

15-II.A. UNDER- OR OVERPAYMENT

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect rental determination is an overpayment or underpayment, DHC must promptly correct the tenant rent and any utility reimbursement prospectively.

PHA Policy

Increases in the tenant rent will be implemented only after the family has received 30 days' notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family is required to reimburse DHC or DHC is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows DHC to use incorrect information provided by a third party.

Family Reimbursement to DHC

PHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. DHC may, but is not required to, offer the family a Repayment Agreement in accordance with Chapter 16. If the family fails to repay the amount owed, DHC will terminate the family's lease in accordance with the policies in Chapter 13.

DHC Reimbursement to Family

PHA Policy

DHC will not reimburse the family for any overpayment of rent when the overpayment is clearly caused by the family 's failure to report changes in household composition and income as required.

Prohibited Actions

- An applicant or resident in the public housing program must not knowingly: Make a false statement to DHC;
- Provide incomplete or false information to DHC; or
- Commit fraud or make false statements in connection with an application for assistance or with reexamination of income.

PHA Policy

Any of the following will be considered evidence of family program abuse: Offering bribes or illegal gratuities to DHC's Board of Commissioners, employees, contractors, or other DHC representatives;

Offering payments or other incentives to a third-party as an inducement for the third-party to make false or misleading statements to DHC on the family's behalf;

Use of a false name or the use of falsified, forged, or altered documents;

Intentional misreporting of family information or circumstances (e.g., misreporting of income or family composition);

Omitted facts that were obviously known by a family member (e.g., not reporting employment income); or Admission of program abuse by an adult family member.

DHC may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family DHC may, at its discretion, impose any of the following remedies:

- DHC may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to DHC);
- DHC may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).
- DHC may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13, respectively.
- DHC may refer the family for state or federal criminal prosecution as described in section 15-II.D.

15-II.C. DHC-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of DHC staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a DHC staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in other DHC policies.

DHC-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]

DHC will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than $30 per month in monthly adjusted income ($360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

PHA Policy

DHC will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error. DHC will reimburse a family, through a credit against future rent, for any family overpayment of rent, not to exceed $250.00. If an has a credit balance as a result of overpayment of rent, that exceeds $250.00, DHC will reimburse the head-of-household by check, for the entire amount of the credit balance, as long as the reimbursement has been reviewed by the Operations Analyst and Compliance Manager and approved by the Director of Real Estate Management. Checks are mailed to the head-of-household unless otherwise approved by DHC's Finance Department.

Prohibited Activities

PHA Policy

Any of the following will be considered evidence of program abuse by PHA staff:

- Failing to comply with any public housing program requirements for personal gain
- Failing to comply with any public housing program requirements as a result of a conflict of interest relationship with any applicant or resident
- Seeking or accepting anything of material value from applicants, residents, vendors, contractors, or other persons who provide services or materials to the PHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of PHA activities, policies, or practices

- Misappropriating or misusing public housing funds
- Destroying, concealing, removing, or inappropriately using any records related to the public housing program
- Committing any other corrupt or criminal act in connection with any federal housing program
- Committing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment
- Allowing sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment, where the PHA knew or should have known such harassment was occurring
- Retaliating against any applicant, resident, or staff reporting sexual harassment or other harassment based on race, color, religion, national origin, familial status, disability, sexual orientation, or gender identity, either quid pro quo (supervisory harassment) or hostile environment

15-II.D. CRIMINAL PROSECUTION

PHA Policy

When DHC determines that program abuse by a family or DHC staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, DHC may refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case may also be referred to the HUD Office of Inspector General.

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES

If DHC enters into a Repayment Agreement with a family to collect rent owed, initiates litigation against the family to recover rent owed, or begins eviction proceedings against a family, DHC may retain 100 percent of program funds that DHC recovers. If DHC does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through DHC grievance process.

CHAPTER 16: PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of DHC-furnished utilities.

Part II: Establishing Flat Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families and describes the circumstances under which DHC will offer Repayment Agreements to families. Also discussed are the consequences for failure to make payments in accordance with a Repayment Agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how DHC is scored under PHAS, and how those scores affect DHC.

Part V: Record Keeping. All aspects of the program involve certain types of recordkeeping. This part outlines the privacy rights of applicants and residents and record retention policies DHC will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level: This part describes DHC's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

Part VII: Violence against Women Act (VAWA): Notification, Documentation, and Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

PART I: SETTING UTILITY ALLOWANCES [24 CFR 965 SUBPART E]

16-I.A. OVERVIEW

DHC must establish allowances for DHC-furnished utilities for all check metered utilities and for all utilities purchased directly by residents from a utility supplier.

DHC must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents.

16-I.B. UTILITY ALLOWANCES

DHC must establish separate allowances for each utility and for each category of dwelling units DHC determines to be reasonably comparable as to factors affecting utility usage.

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if DHC does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide. Costs for telephone, cable/satellite TV, and internet services are not considered utilities.

Air-Conditioning

If a DHC installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 24 CFR 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible.

Utility Allowance Revisions [24 CFR 965.507]

DHC will annually review the basis on which utility allowances have been established. DHC may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes will be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.

16-I.C. NOTICE REQUIREMENTS [965.502]

DHC must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.

Notify residents of the place where DHC's documentation on which allowances and surcharges are based is available for inspection.

Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

16-I.D. REQUEST FOR RELIEF [24 CFR 965.508]

On request from a family that includes a disabled or elderly person, DHC may approve a utility allowance that is higher than the applicable amount for the dwelling unit as DHC may deem appropriate.

Likewise, residents with disabilities may not be charged for the use of certain resident supplied appliances if there is a verified need for special equipment because of the disability.

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

PART II: ESTABLISHING FLAT RENTS

16-II.A. OVERVIEW

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self- sufficient.

Flat rents are also used to provide prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how DHC establishes and updates flat rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and proration of rent for a mixed family are discussed in Chapter 6.

16-II.B. FLAT RENTS [24 CFR 960.253(B) AND NOTICE PIH 2022-33]

Establishing Flat Rents

The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, DHC may set flat rents at

no less than 80 percent of the applicable small area FMR (SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for non-metropolitan areas.

For areas where HUD has not determined a SAFMR or an unadjusted rent, DHC must set flat rents at no less than 80 percent of the FMR or apply for an exception flat rent. The 2015 Appropriations Act permits DHC to request an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if DHC can demonstrate that these FMRs do not reflect the market value of a particular property or unit.

In order to demonstrate the need for an exception flat rent, DHC is required to submit a market analysis methodology that demonstrates the value of the unit. DHC must use HUD's rent reasonableness methodology to determine flat rents. In determining flat rents, DHC must consider the following:

- Location Quality Unit Size Unit type
- Age of property
- Amenities at the property and in immediate neighborhood Housing services provided
- Maintenance provided by the PHA
- Utilities provided by the PHA

DHC must receive written HUD approval before implementing exception flat rents. Before DHC use exception flat rents, it must annually conduct a new market analysis, and obtain HUD approval.

Review of Flat Rents

On an annual basis DHC will update the flat rent amounts within 90 days after HUD publishes new FMRs/SAFMRs/unadjusted rent. Flat rents are determined on a per property basis except for scattered site houses which utilize a per bedroom schedule. DHC must offer changes to the flat rent to all new admissions and to existing families at the next annual rent option.

If the FMR falls from year to year, DHC may, but is not required to, lower the flat rent to 80 percent of the current FMR/SAFMR/unadjusted rent.

PHA Policy

If the FMR/SAFMR/unadjusted rent is lower than the previous year, DHC may reduce flat rents to 80 percent of the current FMR/SAFMR.

Posting of Flat Rents

PHA Policy

DHC will publicly post the schedule of flat rents in a conspicuous manner in the applicable DHC or development office.

Documentation of Flat Rents [24 CFR 960.253(b)(5)]

DHC must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by DHC in accordance with that method.

PART III: FAMILY DEBTS TO DHC

16-III.A. OVERVIEW

This part describes DHC's policies for recovery of monies owed to DHC by families. DHC will use any and all available collection tools to recover debts.

16-III.B. REPAYMENT POLICY

Family Debts to DHC

PHA Policy

Any amount owed to DHC by a family must be repaid. For former residents, if the family is unable to repay the debt or enter into a Repayment Agreement within 30 days of move- out, DHC will refer the debt to a collection agency. If the family refuses to repay the debt and does not enter into a Repayment Agreement, or breaches a Repayment Agreement, DHC will terminate the family's tenancy in accordance with the policies in Chapter 13. DHC may also pursue other methods of collection.

Other Collection Methods

PHA Policy

When a family refuses to repay monies owed to DHC, DHC may utilize all available collection alternatives including, but not limited to, the following:

1. Collection agencies
2. Small claims court
3. Civil lawsuit
4. State income tax set-off program
5. Guidelines for Repayment Agreements

All repayment agreements must be in writing, dated, signed by both the resident and DHC, include the total rent amount owed, and the total retroactive rent owed, if any, the amount of the lump sum payment made at time of execution, if applicable, and the monthly repayment amount.

A Repayment Agreement as used in this ACOP is a document entered into between DHC and a resident who owes a debt to DHC. DHC has the sole discretion of whether to accept such a Repayment Agreement. DHC may enter into a Repayment Agreement with a current resident for an amount owed of no more $2,000 or for no more than three (3) months in arrears, whichever comes first, and upon approval by a Senior-level Supervisor designated by the Department Head. DHC may enter into a Repayment Agreement with a resident who is in good standing regarding all other lease provisions and who has not entered into no more than two (2) Repayment Agreements with DHC within the last eighteen (18) months. Repayment Agreements shall be for a period not to exceed eighteen (18) months and must require that the full amount due is paid within the 18-month period. A Repayment Agreement for longer than an eighteen (18) month period or, a Repayment Agreement for an amount over $2,000 and/or more

than three (3) months in arrears, will require approval from the Department Head or designee. The total the tenant pays, for a combination of the TTP and the Repayment Agreement, should not exceed 40% of the tenant's monthly adjusted income.

A payment is late if it is not paid by the 15th calendar day of the month. If the 15th is on a weekend or holiday, payment will be due by 4:00 p.m. of the next business day. If the family's payment is late, the Repayment Agreement will be cancelled effective the 16th of the month. DHC will notify the family and its Finance Department in writing of the cancellation of the Repayment Agreement, and DHC requires the family to pay the balance in full by the end of the month that the Repayment Agreement was cancelled.

Failure to pay as required will be cause for termination of the lease.

Late fees will not continue to be charged during the term of the Repayment Agreement as long as the family's payment is not late. Late fees will be charged if the family is late on their payment.

If the family requests a transfer to another unit and has a Repayment Agreement in place and the Repayment Agreement is not in arrears, the family will be permitted to move subject to the satisfaction of all other requirements of this ACOP relative to transfers.

Repayment Agreements will be executed between DHC and the head of household and spouse or co-head of household. If the head of household or co-head moves and there is a remaining adult family member in the unit who, in DHC's determination, can enter into a lease with DHC, DHC may terminate the Repayment Agreement with the former head of household and offer a new Repayment Agreement to the new head of household. Regardless of whether or not a new Repayment Agreement is offered, the new head of household will be responsible for paying the remaining outstanding debt owed to DHC by the former head of household.

Multiple Repayment Agreements Not Allowed

A family may not have more than one (1) Repayment Agreement with DHC at a time.

Down Payment Requirement

DHC offers three (3) terms, as options for Repayment Agreements:

(a) An 18-month agreement which requires a payment of 40% of the balance, due at the time the resident signs the Repayment Agreement
(b) A 12-month agreement which requires a payment of 30% of the balance, due at the time the resident signs the Repayment Agreement.

(c) or a 6-month agreement which requires a payment of 20% of the balance due at the time the resident signs the Repayment Agreement.

The balance, due under both Repayment Agreement plans, shall be divided into equal monthly payments, which must be paid in addition to the current tenant rent. However, the family may elect to pay a monthly payment which exceeds the monthly installment stated in the executed Repayment Agreement. Exceptions to this installment plan must be approved by the Executive Director or designee.

If the family can provide evidence satisfactory to DHC that a minimum down payment would impose an undue hardship, DHC may, in its sole discretion, require a lesser percentage or waive the requirement.

There is no penalty for early pay-off of the agreement, and early pay-off is strongly encouraged. However, once the Repayment Agreement has been paid in full, the family cannot enter into another Repayment Agreement within two (2) years of the date the previous Repayment Agreement was paid in full.

Length and Number of Repayment Agreements

The maximum length of time DHC will enter into a Repayment Agreement with a family is eighteen (18) months. DHC may adjust an existing Repayment Agreement by canceling it and entering into a new agreement for a resident whose total tenant payment (TTP) becomes $50.00 or less during the term of the Repayment Agreement and whose outstanding balance is $500.00 or less. DHC will not adjust a Repayment Agreement for a family that has executed two (2) Repayment Agreements within a 24-month period, from the current request.

A second Repayment Agreement must be for a good cause reason as defined in this ACOP. Examples of good cause reasons for entering into a second Repayment Agreement include, but are not limited to, the following: death of immediate family member, i.e., mother, father, son, daughter, husband, wife, household member, grandmother, grandfather, sibling, loss of earned income, and other circumstances as approved, in writing, by the Executive Director or designee.

Payment Thresholds

The down payment as well as the monthly payment cannot exceed 40% of a family's monthly income. If a family is paying less than 40 percent of its monthly adjusted income (MAI) in rent, the minimum monthly payment amount will be the greater of the following two amounts:

- The difference between 40 percent of the family's MAI and the total family share at the time the Repayment Agreement is executed.
- If a family can provide evidence satisfactory to DHC that a monthly payment amount of

- $25 would impose an undue hardship, DHC may, in its sole discretion, require a lower monthly payment amount.
- If the family's income increases or decreases during the term of a Repayment Agreement, either DHC or the family may request that the monthly payment amount be adjusted accordingly. Repayment Agreements that exceed 40% of person's income will be extended in one- month increments until the person's payment does not exceed 40% of person's income.

Repayment Agreements Involving Improper Payments

HUD PIH Notice 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

1. A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which
2. DHC may terminate assistance because of a family's action or failure to act
3. A statement clarifying that each month the family not only must pay to DHC the monthly payment amount specified in the agreement but must also pay DHC family's monthly tenant rent.
4. A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
5. A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy

Residents are required to reimburse DHC if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The resident is required to reimburse DHC for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the resident refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, DHC must terminate the family's tenancy or assistance, or both. HUD does not authorize any DHC-sponsored amnesty or debt forgiveness programs.

DHC is required to determine retroactive rent amount as far back as DHC has documentation of family reported income.

Repayment Agreements for Former Residents

DHC is required to report all debt to HUD via the EIV system. The original amount owed to DHC at the time of move out will be posted and recorded as debt owed to DHC in the EIV system.

Former residents that are eligible for immediate housing with another PHA or owner in connection with any assisted housing program may be allowed to enter into a repayment agreement in an effort to obtain immediate housing and to satisfy the debt. In these cases, DHC offer the following Repayment Agreement:

- Up to a 12-month agreement which requires a payment of 30% of the balance due at the time the former resident signs the Repayment Agreement;
- The balance due under both Repayment Agreement plans shall be divided into equal monthly installments. The family may elect to pay a monthly payment which exceeds the monthly installment stated in the executed Repayment Agreement.

The EIV system will be updated to reflect a status of "Repayment Agreement" after the initial payment has been made and the required forms are signed. Once the balance is paid in full, the EIV system will be revised to reflect a status of "Debt Owed Paid in Full".

If the former resident fails to maintain the monthly payments, the former resident will be notified that the balance is due in full, and payment would be expected within 30 days.

Consequently, the EIV system will be revised to reflect a status of "Default on Repayment Agreement".

If a resident does not enter into a repayment agreement to satisfy the debt, the EIV debts owed record will reflect the balance owed to the DHC with no favorable updates. As such, former residents that owe an unsettled debt may be prevented from receiving assistance from other HUD assisted programs.

In all cases of former resident debt, the original amount owed to DHC at the time of move out will be posted on the EIV system.

PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)

16-IV.A. OVERVIEW

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among PHAs,

public housing residents, HUD, and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

16-IV.B. PHAS SCORE [24 CFR 902 SUBPART F]

HUD's Real Estate Assessment Center (REAC) issues overall PHAS scores. DHC will post a notice of its final PHAS score and designation in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and designation.

PART V: RECORD KEEPING

16-V.A. OVERVIEW

DHC must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, DHC must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA 2022 confidentiality requirements.

16-V.B. RECORD RETENTION

PHA Policy

DHC must keep the last three (3) years of the Form HUD-50058 and supporting documentation during the term of each assisted lease period, and for a period of at least three (3) years from the end of participation (EOP) date.

During the term of each public housing tenancy, and for at least three (3) years thereafter, DHC will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, DHC will keep the following records for at least three (3) years:

An application from each ineligible family and notice that the applicant is not eligible. Lead-based paint records.

Documentation supporting the establishment of flat rents.

Documentation supporting the establishment of utility allowances and surcharges. Documentation related to DHC.

Accounts and other records supporting DHC budget and financial statements for the program.

Confidential records of all emergency transfers related to VAWA requested under DHC's Emergency Transfer Plan and the outcomes of such requests.

Other records as determined by DHC or as required by HUD.

Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

16-V.C. RECORDS MANAGEMENT

DHC must maintain applicant and resident files and information in accordance with the regulatory requirements described below.

PHA Policy

All applicant and resident information will be kept in a secure location and access will be limited to authorized DHC staff.

DHC staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in progressive disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886-A]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and residents must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and residents, including all adults in the household, are required to sign a consent form, HUD-9886-A, Authorization for Release of Information/Privacy Act Notice. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions DHC may release the information collected.

Upfront Income Verification (UIV) Records

Before utilizing HUD's Enterprise Income Verification (EIV) system, DHC will adopt and implement EIV security procedures.

UIV/EIV Security Policy

DHC will utilize Upfront Income Verification (UIV) as the preferred method of verifying income. UIV refers to DHC's use of verification tools available from independent sources that maintain computerized information about earning and benefits, including HUD's EIV system.

All UIV and related documents will only be used for the purposes for which they were intended. The data is subject to the provisions of the Federal Privacy Act (5 U.S.C. § 552, as amended from time to time.

Executive Director's Responsibilities

The Executive Director shall appoint UIV/EIV Security Officer(s).

The Executive Director or designee shall authorize users for access to UIV/EIV systems and data only where necessary.

The security officer(s) shall be responsible for determining and reporting to the Executive Director any instances of improper disclosure of UIV/EIV data and/or unauthorized access of UIV/EIV systems.

The Executive Director or designee shall monitor UIV/EIV procedures to ensure ongoing compliance. Procedures will be updated as needed.

Disclosure to Applicants and Residents, Data Security and Disposition

DHC shall inform applicants and residents that DHC will make use of UIV/EIV systems during the application process and at each annual reexamination. This disclosure shall include the following:

A brief explanation of the UIV/EIV system.

A brief explanation of how income discrepancies are identified, the potential effect on rental calculations, and penalties for committing fraud. A brief explanation of how discrepancies are resolved.

A brief explanation of the actions DHC may take based on verified unreported or underreported income.

Each resident and applicant file shall contain a properly completed, active HUD 9886 Form or equivalent, granting DHC access to UIV/EIV data.

UIV/EIV data shall be kept in a locked, fire-resistant filing cabinet(s), and only those staff members who have been authorized by the Executive Director may be given keys and/or access to the data. The Executive Director shall maintain a list of users receiving keys. The filing cabinet(s) shall in turn be secured behind a door locked whenever the office is closed.

Proper disposition of UIV/EIV data shall be performed by cross-shredding.

Criminal Records

DHC may only disclose the criminal conviction records which DHC receives from a background check agency to officers or employees of DHC, or to authorized representatives of DHC who have a job-related need to have access to the information. DHC must establish and implement a system of records management that ensures that any criminal record received by DHC from a background check agency is maintained confidentially, not misused, or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to DHC action without institution of a challenge or final disposition of any such litigation.

DHC must establish and implement a system of records management that ensures that any sex offender registration information received by DHC from the background check agency is maintained confidentially, not misused, or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to DHC's action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information or is obtained by DHC other than under federal regulations.

Medical/Disability Records

DHC is not permitted to inquire about the nature or extent of a person's disability. DHC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If DHC receives a verification document that provides such information, DHC should not place this information in the resident file. DHC should destroy the document.

Domestic Violence, Dating Violence, Sexual assault, stalking, or human trafficking Records

For requirements and DHC's policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, see section 16-VII.E.

PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VI.A. REPORTING REQUIREMENTS [24 CFR 35.1130(E); NOTICE PIH 2017-13]

PHA Policy

DHC will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level within 5 business days of being so notified by any other medical health care professional.

DHC will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within 20 business days of receiving the information.

PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY

16-VII.A. OVERVIEW

The Violence Against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the public housing program. In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and DHC policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and DHC policies are located in Chapter 3,

"Eligibility" (sections 3-I.C and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (section 5-II.D); Chapter 8, "Leasing and Inspections" (section 8-I.B); Chapter 12, "Transfer Policy" (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, "Lease Terminations" (sections 13-III.F and 13-IV.D).

16-VII.B. DEFINITIONS [24 CFR 5.2003, FR NOTICE 8/6/13]

For purposes of determining whether a public housing applicant or resident may be covered by VAWA, the following list of definitions applies:

VAWA defines bifurcate to mean, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain residents can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

VAWA defines domestic violence to include felony or misdemeanor crimes of violence committed by any of the following:

1. A current or former spouse or intimate partner of the victim; A person with whom the victim shares a child in common;
2. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
3. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies; or
4. Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

VAWA defines dating violence as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

1. The length of the relationship;
2. The type of relationship; and
3. The frequency of interaction between the persons involved in the relationship.

The term affiliated individual means, with respect to a person:

1. A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
2. Any individual, resident or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

The term sexual assault means:

1. Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent.
2. VAWA defines stalking as to engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information

- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

16.VII.C. NOTIFICATION TO PUBLIC [24 CFR 5.2005(A)]

PHA Policy

DHC will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

- A notice of occupancy rights under VAWA to public housing program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380)
- A copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation
- A copy of DHC's Emergency Transfer Plan
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383.

16.VII.D. EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING

Emergency Transfers

In accordance with the Violence Against Women Act (VAWA),[2] DHC allows residents who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking to request an emergency transfer from the resident's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.[3] The ability of DHC to honor such requests for residents currently receiving assistance, however, may depend upon a preliminary determination that the resident is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and on whether DHC has another dwelling unit that is available and is safe to offer the resident for temporary or more permanent occupancy.

This plan identifies residents who are eligible for an emergency transfer under VAWA, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to residents on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees that the Detroit Housing Commission Public Housing Program is in compliance with VAWA.

1. Eligibility for Emergency Transfers

A resident who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an

emergency transfer, if: the resident reasonably believes that there is a threat of imminent harm from further violence if the resident remains within the same unit. If the resident is a victim of sexual assault, the resident may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer. A resident requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Residents who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section. Residents may conveniently use HUD form 5383 to make an emergency

[2] Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.
[3] Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

transfer request. Residents are not required to use Form 5383 but may make a request following the procedures as stated in this section. (See Exhibit 16.VII.D.1)

2. Emergency Transfer Request Documentation

To request an emergency transfer, the resident shall notify DHC's management office and submit a written request for a transfer to DHC Director of Real Estate Management, 1301 E. Jefferson Ave., Detroit, MI 48207. DHC will provide reasonable accommodations to this policy for individuals with disabilities. The resident's written request for an emergency transfer should include either:

a. A statement expressing that the resident reasonably believes that there is a threat of imminent harm from further violence if the resident were to remain in the same dwelling unit assisted under DHC's program; or
b. A statement that the resident was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the resident's request for an emergency transfer; or
c. The information also may be provided by using HUD Form 5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation and Alternate Documentation (Exhibit 16-VII.D 2)

3. Confidentiality

DHC will keep confidential any information that the resident submits in requesting an emergency transfer, and information about the emergency transfer, unless the resident gives DHC written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the public housing program. This includes keeping confidential the new location of the dwelling unit of the resident, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, stalking, or human trafficking against the resident. See the Notice of Occupancy Rights under the Violence Against Women Act For All Residents for more information about DHC's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

4. Emergency Transfer Timing and Availability

DHC cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. DHC will, however, act as quickly as possible to move a resident who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking to another unit, subject

to availability and safety of a unit. If a resident reasonably believes a proposed transfer would not be safe, the resident may request a transfer to a different unit. If a unit is available, the transferred resident must agree to abide by the terms and conditions that govern occupancy in the unit to which the resident has been transferred.

DHC may be unable to transfer a resident to a particular unit if the resident has not or cannot establish eligibility for that unit. DHC has the discretion to make a temporary transfer to a unit that a resident may transfer to if the unit is available and there are no other transfers eligible for the unit. Once a unit becomes available that the resident qualifies for, the resident must accept the offer for the eligible unit or be subject to lease termination. Lease termination is an adverse action taken by DHC against the resident. In such case the resident will have a right to utilize the currently established DHC grievance procedure under Section 14-III of this ACOP in accordance with 24 CFR. Part 966.

If DHC has no safe and available units for which a resident who needs an emergency transfer is eligible, DHC will assist the resident in identifying other housing providers who may have safe and available units to which the resident could move. At the resident's request, DHC will also assist residents in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

A copy of those agencies will be made available in the site offices and in the Director of Real Estate Management's office. Also, the information will be available on DHC's website, www.dhcmi.org.

5. Safety and Security of Residents

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the resident is urged to take all reasonable precautions to be safe.

Residents who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Residents who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE or visit the online hotline at https://ohl.rainn.org/online/.

Residents who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

16.VII.E. NOTIFICATION TO APPLICANTS AND RESIDENTS

DHC is required to inform public housing applicants and residents of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

DHC must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-5382) at each of these three junctures.

DHC will provide all applicants with information about VAWA at the time they request an application for housing assistance. DHC will also include such information in all notices of denial of assistance (see section 3-III.F).

DHC will provide all residents with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. DHC will also include such information in all lease termination notices (see section 13-IV.D).

DHC is not limited to providing VAWA information at the times specified in the above policy. DHC may decide to provide VAWA information to a resident following an incident of domestic violence.

Whenever DHC has reason to suspect that providing information about VAWA to a resident might place a victim of domestic violence at risk, it will not mail the information but will attempt to make alternative delivery arrangements.

16-VII.F. DOCUMENTATION FOR INITIAL OR CONTINUED ASSISTANCE

If DHC is presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse DHC may, but is not required to, request that the individual making the claim document the abuse. DHC's request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. DHC may extend this time period at its discretion.

The individual may satisfy the DHC's request by providing any one of the following three forms of documentation in the order of preference below:

Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, stalking, or human trafficking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional, or a medical professional. Acceptable documentation also includes a record of an administrative agency,

and documentation from a mental health professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

A federal, state, tribal, territorial, or local police report or court record, or an administrative record.

A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim.

DHC may not require third-party documentation (forms 1 and 2) in addition to certification (form 3), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation.

Any request for documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

DHC may, in its discretion, extend the deadline for 10 business days. Any extension granted by the DHC will be in writing.

Conflicting Documentation

In cases where DHC receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, DHC may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 1 and 2) and by following any HUD guidance on how such determinations should be made.

DHC must honor any court orders issued to protect the victim or to address the distribution of property.

Discretion to Require No Formal Documentation

DHC has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence, i.e., without requiring formal documentation of abuse. If DHC accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, DHC will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation

In order to deny relief for protection under VAWA, DHC must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as DHC may allow, DHC may deny relief for protection under VAWA.

16-VII.G. CONFIDENTIALITY

All information provided to DHC regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, must be retained in confidence. This means that DHC (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, DHC will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

1 Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

2 Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Post HOTMA Implementation Date Chapters

After the PHA's HOTMA compliance date, the PHA will follow policies as outlined in the chapters in this section.

The following chapters will be used:

- Chapter 6.B.: INCOME AND RENT DETERMINATIONS UNDER HOTMA 102/104
- Chapter 7.B.: VERIFICATION UNDER HOTMA 102/104
- Chapter 9.B.: REEXAMINATIONS UNDER HOTMA 102/104

Chapter 6.B.: INCOME AND RENT DETERMINATIONS UNDER HOTMA 102/104

DRAFT
Use After
HOTMA Compliance Date Only

[24 CFR Part 5, Subparts E and F; 24 CFR 960, Subpart C]

INTRODUCTION

This chapter is applicable upon the PHA's HOTMA 102/104 compliance date. Prior to this date, the PHA will follow policies as outlined in Chapter 6.A. of the model policy.

A family's annual income is used to determine their income eligibility for the public housing program and is also used to calculate the amount of the family's rent payment. DHC will use the policies and methods described in this chapter to ensure that only income-eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD Regulations and DHC policies related to these topics in four parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income to include and excluded to arrive at a family's annual income. These requirements and DHC policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and PHA policies for calculating income from assets are found in Part II.

Part III: Adjusted Income. Once annual income has been established, HUD regulations require the DHC to subtract from annual income any of five mandatory deductions for which a family qualifies and allow the DHC to adopt additional permissive deductions. DHC policies for calculating adjusted income are found in Part III.

Part IV: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also, included here are flat rents and the family's choice of rents.

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PART I: ANNUAL INCOME

6-I.A. OVERVIEW

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources (other than those specifically excluded in 24 CFR 5.609(b)) by each member of the family who is 18 years of age or older or is the head of household or spouse.
- Unearned income (other than those sources specifically excluded in 24 CFR 5.609(b)) by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds the HUD-published threshold amount (adjusted annually and published in HUD's Inflation-Adjustment Values tables and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous version of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but did not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. However, when a family member's wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of assets.

The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

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- Annual Income Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

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6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Overview

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition in accordance with HUD regulations and DHC policies in Chapter 9. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources (both earned and unearned) is excluded. [24 CFR 5.609(b)(8)].
Foster child or foster adult	Income from all sources (both earned and unearned) is excluded. [24 CFR 5.609(b)(8)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included. [24 CFR 5.609(a)].
Minors	Earned income is excluded. [24 CFR 5.609(b)(3)]. All sources of unearned income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Earned income in excess of the dependent deduction is excluded. [24 CFR 5.609(b)(14)]. All sources of unearned income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define "temporarily" or "permanently" absent or specify a timeframe associated with a temporary versus a permanent absence.

PHA Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

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Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member.

Generally, an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

PHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to DHC indicating that the student has established a separate household, or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family. [24 CFR 5.403].

PHA Policy

If a child has been placed in foster care, DHC will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will continue to be counted as a family member.

Absent Head of Household, Spouse, or Co-Head

PHA Policy

An employed head of household, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Family Members Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, PHAs may determine that that person is no longer a member of the assisted household, and the income of that person is not counted [New PH OCC GB, Income Determinations, p. 12].

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PHA Policy

DHC will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

Joint Custody of Children

PHA Policy

Dependents who are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, DHC will make the determination based on available documents such as court orders, or an IRS tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

Caretakers for a Child

PHA Policy

The approval of a caretaker is at the PHA's discretion and subject to the PHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving assistance, DHC will take the following actions:

If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will be screened to determine eligibility to live in public housing. An approved caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases DHC will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

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6-I.C. CALCULATING ANNUAL INCOME

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

Anticipating Annual Income [24 CFR 5.609(c)(1)]

The DHC is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

The DHC generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the DHC to use other than current circumstances to anticipate income when:

At initial occupancy and for an interim reexamination of family income, the DHC is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. Policies related to verifying income are found in Chapter 7.

PHA Policy

When DHC cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), DHC will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. [24 CFR 5.609(d)] [24 CFR 5.609(d)]

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to DHC to show why the historic pattern does not represent the family's anticipated income.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how DHC annualized projected income.

DHC is required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows DHC to use tenant-provided documents (pay stubs) dated within 120 days of the date received by the PHA to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the DHC does not determine it is necessary to obtain additional third-party data. The DHC may also accept a statement dated within the appropriate benefit year for fixed income sources.

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PHA Policy

When EIV is obtained and the family does not dispute the EIV employer data, the DHC will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, the DHC will make every effort to obtain current and consecutive pay stubs dated within the last 120 days.

The DHC will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

If EIV or other UIV data is not available,
If the family disputes the accuracy of the EIV employer data, and/or
If the DHC determines additional information is needed.

In such cases, the DHC will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the DHC annualized projected income.

When the DHC cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the DHC will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the DHC to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If DHC verifies an upcoming increase or decrease in income at admission or interim reexamination annual income will be projected by applying each income amount to the appropriate part of the 12-month period.

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Example: An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the new admission or interim reexamination. In such a case DHC would calculate annual income as follows:

($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases DHC will calculate annual income using current circumstances and then, should the change in income require DHC to conduct an interim reexamination, conduct an interim reexamination in accordance with PHA policy in Chapter 9

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within 120 days of the date received by the DHC. Statements dated within the appropriate benefit year will be accepted for fixed income sources.

Projecting Income

In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2); Notice PIH 2023 27]

At annual reexamination, except where the DHC uses a streamlined income determination, DHC must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with DHC policies in Chapter 9 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rent. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 9.

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6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27; Notice PIH 2024-38]

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)]. Income earned as a day laborer is not considered nonrecurring income.

A *seasonal worker* is defined as an individual who is hired into a short-term position(e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27]. Income earned as a seasonal worker is not considered nonrecurring income.

PHA Policy

DHC will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, DHC will verify, and then average amounts received for the two (2) years preceding admission or reexamination. If only a one (1) year history is available, DHC will use the prior year amounts. In either case the family may provide, and DHC will consider, a credible justification for not using this history to anticipate

future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, DHC will count only the amount estimated by the employer. The file will be documented appropriately.

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Some Types of Military Pay

All regular pay, special pay, and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire. [24 CFR 5.609(b)(11)]. Where authorized by HUD, DHC may use actual past income in determining annual income from military pay.

Types of Earned Income Not Counted in Annual Income

Earnings of a Minor [24 CFR 5.609(b)(3)]

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

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Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending. [New PH OCC GB, *Lease Requirements,* p. 5].

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(b)(8)]. (See Eligibility chapter for a full discussion of live-in aides.)

Resident Service Stipend

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount, not to exceed $200 per individual per month, received by a resident for performing a service for DHC, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident

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initiatives coordination, community coaches, community advocates and serving as a member of DHC's governing board. No resident may receive more than one such stipend during the same period of time.

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6-I.E. EARNED INCOME DISALLOWANCE [24 CFR 960.255; STREAMLINING FINAL RULE (SFR) FEDERAL REGISTER 3/8/16; NOTICE PIH 2023-27]

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating in the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and DHC policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

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Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "baseline income." The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that he or she is participating in the EID.

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Calculation Method Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

PHA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion

During the second exclusion period of 12 consecutive months, DHC must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

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PHA Policy

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During the second 12-month exclusion period, DHC will exclude (50 percent) of any increase in income attributable to new employment or increased earnings.

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Lifetime Limitation

The EID has a two (2) year (24-month) lifetime maximum. The two (2) year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

Individual Savings Accounts [24 CFR 960.255(d)]

PHA Policy

The DHC chooses not to establish a system of individual savings accounts (ISAs) for families who qualify for the EID.

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6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(B)(28); NOTICE PIH 023-27]

Annual income includes the net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness may not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in IRS regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

PHA Policy

To determine business expenses that may be deducted from gross income, DHC will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described herein.

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Independent Contractors

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)]. This may include individuals such as third-party delivery and transportation service providers and "gig workers" like babysitters, landscapers, rideshare drivers, and house cleaners. Income earned as an independent contractor is not considered nonrecurring income.

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Business Expenses

Net income is "gross income less business expense."

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To determine business expenses that may be deducted from gross income, DHC will use current applicable IRS rules for determining allowable business expenses, unless a topic is addressed by HUD regulations or guidance as described below.

Where authorized by HUD, DHC may use actual past income in determining net annual income from the operation of a business or profession.

Business Expansion

HUD regulations do not permit the DHC to deduct from gross income expenses for business expansion.

PHA Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit the DHC to deduct from gross income the amortization of capital indebtedness.

PHA Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means DHC will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require the DHC to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

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PHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of a resident family provided an up-front loan of $2,000 to help a business get started, DHC will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

PHA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

Assets Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant).

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6-I.G. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

DHC must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self- sufficiency program as a condition as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self- sufficiency program or work activities requirement, DHC must include in annual income "imputed" welfare income. DHC must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements. [24 CFR 5.615(b)(2)].

For special procedures related to grievance hearings based upon DHC's denial of a family's request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

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Offsets

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero. [24 CFR 5.615(c)(4)].

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6-I.H. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(B)(9)]

The regulations distinguish between two categories of student financial assistance paid to both full-time and part-time students. The first category is any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA), which must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
  - The Higher Education Tribal Grant
  - The Tribally Controlled Colleges or Universities Grant Program

The second category is any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education (not otherwise excluded by the Federally mandated income exclusions) [24 CFR 5.609(b)(9)(ii)]. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is included in income.

Actual covered costs are defined as the actual costs of:

- Tuition, books, and supplies;
  - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the educational institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

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Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the DHC.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then

other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

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PHA Policy

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the DHC will exclude the full amount of the assistance received under Title IV from the family's annual income. The DHC will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the DHC will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The DHC will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The DHC will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

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Example 1

- Actual covered costs: $20,000
- Other student financial assistance: $25,000
- Excluded income: $20,000 ($25,000 in financial assistance - $20,000 in actual covered costs)
- Included income: $5,000

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When a student receives assistance from both Title IV of the HEA and from other sources, the DHC will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

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Example 2

- Actual covered costs: $25,000
- Title IV HEA assistance: $26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: $5,000
- Excluded income: The entire Title IV HEA assistance of $26,000
- Included income: All other financial assistance of $5,000

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If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the DHC will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

Example 3

- Actual covered costs: $22,000
- Title IV HEA assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $7,000 ($22,000 in actual covered costs - $15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: $5,000
- $7,000 in remaining actual covered costs - $5,000 in other financial assistance
- Excluded income: $15,000 entire amount of the Title IV HEA Assistance + $5,000 in other financial assistance
- Included income: $0

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Example 4

- Actual covered costs: $18,000
- Title IV HEA Assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $3,000 ($18,000 in actual covered costs - $15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: $5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by $2,000 ($3,000 in actual covered costs - $5,000 in other financial assistance).
- Included income: $2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

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6-I.I. PERIODIC PAYMENTS [NOTICE PIH 2023-27]

Periodic payments are forms of income received on a regular basis.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly. Unemployment income and other types of periodic payments are not considered nonrecurring income, unless explicitly excluded from income under 25 CFR 5.609(b), and thus they are included in annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

PHA Policy

DHC will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

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When a delayed-start payment is received that is to be included and the family reports this during the period in which DHC is processing an annual reexamination, DHC will adjust the tenant rent retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a Repayment Agreement with DHC.

If the delayed-start payment is received outside of the time DHC is processing an annual reexamination, then DHC will consider whether the amount meets the threshold to conduct an interim reexamination. If so, DHC will conduct an interim in accordance with DHC policies in Chapter 9. If not, DHC will consider the amount when processing the family's next annual recertification.

Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

Social Security Benefits [Notice PIH 2023-27]

DHC is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

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PHA Policy

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, DHC must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

Further, if a family's social security income is garnished for any reason, DHC will use the net amount after the garnishment in order to calculate the family's income.

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6-I.J. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(B)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with a resident family.

Alimony and Child Support

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

PHA Policy

DHC will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement unless the family certifies and DHC verifies that the payments are not being made.

In order to verify that payments are not being made, DHC will review child support payments over the last three months. If no payments have been made in the past three months and there are no lump sums, DHC will not include alimony or child support in annual income.

If payments are being made regularly, DHC will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, DHC will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, DHC will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If DHC determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If DHC determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

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Regular Contributions or Gifts

DHC must count as income regular monetary and non-monetary contributions or gifts from persons not residing with a resident family. Temporary, non-recurring, or sporadic income and gifts are not counted.

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Non-monetary contributions will be valued at the cost of purchasing the items, as determined by DHC. For contributions that may vary from month to month (e.g., utility payments), DHC will include an average amount based upon past history.

When authorized by HUD, DHC may use actual past income in determining annual income from regular monetary and non-monetary contributions or gifts from persons not residing with a resident family.

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6-I.K. NONRECURRING INCOME [24 CFR 5.609(B)(24) AND NOTICE PIH 2023-27]

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Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly.

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Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

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Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].

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- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to such non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income. However, the value of regular in-kind donations (such as the value of groceries) received by friends and family are included.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

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6-I.L. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(B)(19)]

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

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6-I.M. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(B)(25); FR NOTICE 2/14/23]

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's *net family assets* (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of net family assets). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed the HUD-published threshold amount ($50,000 for 2024, and $51,600 for 2025, then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

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6-I.N. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(B); FR NOTICE 1/31/2024]

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Other exclusions contained in [24 CFR 5.609(b) and FR Notice 1/31/2024] and that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one (1) year that are received in lieu of wages are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the

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purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].

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- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first $2,000 of per capita shares are included in a family's *annual income* for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income.
- Replacement housing "gap" payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].

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State and Local Employment Training Programs [24 CFR 5.609(b)(12)(iv)]

- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

  PHA Policy

  DHC defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

  DHC defines *incremental earnings* and benefits as the difference between (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

  In calculating the incremental difference, DHC will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

  End of participation in a training program must be reported in accordance with the PHA's interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].

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- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].

  HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on January 31, 2024. It includes:

  (dd) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b)). This exclusion also applies to assets.

  (ee) Benefits under Section 1780 of the Richard B. Russell School Lunch Act and Child Nutrition Act of 1966, including WIC and reduced-price lunches.

  (ff) Payments, including for supportive services and reimbursement of out-of-pocket expenses, to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058). The exclusion also applies to assets.

  a. Except, the exclusion does not apply when the Chief Executive Officer of the Corporation for National and Community Service determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)).

  (gg) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)).

  (hh) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 55064).

  (ii) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)(1)).

  (jj) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 which reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241 (a)(2)).

  (kk) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts.

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(ll) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Section 6).

(mm) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b)).

(nn) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al*., for a period of one (1) year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010.

(oo) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407-1408).

(pp) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f)).

(qq) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.). This exclusion also applies to assets.

(rr) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean and Thailand service veterans born with spinal bifida (42 U.S.C. 12637 (d)).

(ss) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721). This exclusion also applies to assets.

(tt) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q).

(uu) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)). This exclusion also applies to assets.

(vv) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433). This exclusion also applies to assets.

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(ww) Amounts of student financial assistance funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu).

For Section 8 programs only, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327 (as amended)).

(xx) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)).

(yy) Any amount of crime victim compensation that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)).

(zz) Any amounts in an "individual development account" are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4)).

(aaa) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. This exclusion also applies to assets.

(bbb) Distributions from an ABLE account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09 or subsequent or superseding notice is excluded from income and assets.

(ccc) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409).

(ddd) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021.

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(eee) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013-1. The first $2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407).

(fff) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. Chapter 11 or dependency and indemnity compensation under 38 U.S.C. Chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.).

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PART II: ASSETS

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6-II.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3.

Income from assets is always anticipated, irrespective of the income examination type.

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6-II.B. GENERAL POLICIES

Income from Assets

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PHA Policy

DHC generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the DHC to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) DHC believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant DHC can take into consideration past rental income along with the prospects of obtaining a new tenant.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases, the family may present information and documentation to DHC to show why the asset income determination does not represent the family's anticipated asset income.

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Valuing Assets

The calculation of asset income sometimes requires the DHC to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

PHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions. If no reasonable costs to dispose of the asset have been provided by the applicant, the DHC will consider 10% of the market value as reasonable costs incurred in lieu of penalties for premature withdrawal, broker and legal fees, commissions fees, and closing costs when determining the cash value of the asset.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

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PHA Policy

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the DHC will prorate the asset according to the percentage of ownership.

Assets Disposed of for Less than Fair Market Value [24 CFR 5.603 (b)(2)]

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of by an applicant or resident participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two (2) years preceding the date of admission or reexamination, as applicable, in excess of the consideration received for the asset.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years.

Minimum Threshold

HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. DHC may establish a policy to ignore small amounts such as charitable contributions [New PH OCC GB, Income Determinations, p. 24].

PHA Policy

DHC will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two (2) years exceeds the gross amount received for the assets by more than $1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

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Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

PHA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Family Declaration

PHA Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. DHC may verify the value of the assets disposed of if other information available to DHC does not appear to agree with the information reported by the family.

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6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all **non-necessary** items of personal property is only included in annual income when the combined total value exceeds the HUD-published threshold amount (adjusted annually and published in HUD's current year Inflation-Adjusted Values tables). When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets.

- The threshold amount is $50,000 for 2024, and $51,600 for 2025.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

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Necessary Personal Property	Non-Necessary Personal Property
▪ Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) ▪ Furniture, carpets, linens, kitchenware ▪ Common appliances ▪ Common electronics (e.g., radio, television, DVD player, gaming system) ▪ Clothing ▪ Personal effects that are not luxury items (e.g., toys, books) ▪ Wedding and engagement rings ▪ Jewelry used in religious/cultural celebrations and ceremonies ▪ Religious and cultural items ▪ Medical equipment and supplies ▪ Health care–related supplies ▪ Musical instruments used by the family ▪ Personal computers, phones, tablets, and related equipment ▪ Professional tools of trade of the family, for example professional books ▪ Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities ▪ Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	▪ Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs)) ▪ Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) ▪ Recreational boat/watercraft ▪ Expensive jewelry without religious or cultural value, or which does not hold family significance ▪ Collectibles (e.g., coins/stamps) ▪ Equipment/machinery that is not used to generate income for a business ▪ Items such as gems/precious metals, antique cars, artwork, etc.

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PHA Policy

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In determining the value of non-necessary, non-financial personal property, the DHC will use the family's estimate of the value. The DHC may obtain an appraisal if there is reason to

believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

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6-II.D. TYPES OF ASSETS

Checking and Savings Accounts [Notice PIH 2023-27]

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than the HUD-published threshold amount, which is adjusted annually and listed in HUD's current year Inflation Adjusted Values tables ($50,000 for 2024, and $51,600 for 2025), checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

PHA Policy

- In determining the value of a checking account, the DHC will use the average of the most current 6 month's ending balance.
- In determining the value of a savings account, the DHC will use the current ending balance.
- In determining the anticipated income from an interest-bearing checking or savings account, the DHC will multiply the value of the account by the current rate of interest paid on the account.

Actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and

distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

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Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

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- When the combined value of net family assets is greater than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables ($50,000 for 2024, and $51,600 for 2025), financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property is not greater than the HUD-published threshold amount, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is $0.

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PHA Policy

In determining the market value of an investment account, the DHC will use the value of the account on the most recent investment report.

The DHC will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known.

For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).

When the anticipated rate of return is not known (e.g., stocks), the PHA will calculate asset income based on the earnings for the most recent reporting period.

The cash value of such an asset will be determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24)(viii); Notice PIH 2023-27]

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the DHC chooses not to conduct the examination.

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For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

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PHA Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a $1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

Jointly Owned Assets [Notice PIH 2023-27]

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access." For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total **value** of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any **income** from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

PHA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the DHC will count the full value of the asset. A family member has unrestricted access to an asset when they can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, and the family demonstrates that they can only access a portion of the income from an asset, then the DHC will prorate the asset according to the percentage of ownership in the calculation of income from assets.

If no percentage is specified or provided for by state or local law, the DHC will prorate the asset evenly among all owners.

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If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25 and PH, p. 121].

PHA Policy

In determining the equity, the DHC will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

The DHC will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the DHC will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income **except** for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

PHA Policy

For the purposes of calculating expenses to convert to cash for real property, the DHC will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

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In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

PHA Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the DHC determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Typically, special needs trusts are considered irrevocable. Irrevocable trusts not under the control of any family member are excluded from net assets. The value of the trust continues to be excluded from net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Further, where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

A *revocable* trust is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

- A revocable trust that is under the control of the family is included in net family assets when the grantor is a member of the assisted family. If a revocable trust is included in the calculation of net

family assets, then the actual income earned by the revocable trust is also included in the family's income. For example, interest earned or rental income if the property is held in the trust. The PHA must calculate imputed income on the revocable trust if net family assets are more than the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables ($50,000 for 2024, and $51,600 for 2025), and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

- A revocable trust that is not under the control of the family is excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

For both irrevocable and revocable trusts, if the value of the trust is not considered part of net family assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

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6-II.E. RETIREMENT ACCOUNTS

Company Retirement/Pension Accounts

The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)] are excluded from the calculations of net family assets.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are not counted as assets.

Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets.

HUD defines n*ecessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items.

Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

PHA Policy

In determining the value of personal property held as an investment, the DHC will use the family's estimate of the value. The DHC may obtain an appraisal if there is reason to believe

that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

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Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

Necessary personal property consists of only those items not held as an investment. It may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of net family assets. When the subtraction results in a negative number, then the balance of the asset is considered $0.

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Asset Exclusions [24 CFR 5.603(b)]

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any "baby bond" account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and

- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

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6-II.F. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

Net Family Assets

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

PHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

The cash value of real property or other assets with negative equity would be considered $0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

Actual Income from Assets

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of

net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

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Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The PHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables, without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

- The threshold amount is $50,000 for 2024, and $51,600 for 2025.

The PHA may not calculate or include any imputed income from assets when net family assets are less than or equal to the HUD-published threshold amount [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

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Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]

When net family assets exceed the HUD-published threshold amount, which is adjusted annually and listed in HUD's Inflation Adjusted Values tables, the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat).

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Imputed income is calculated by multiplying the net cash value of the asset (found by deducting reasonable costs that would be incurred in disposing of the asset from the market value) by the HUD-published passbook rate. If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of $0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is

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issued, and when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is consistently $0.

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PART III: ADJUSTED INCOME

6-III.A. INTRODUCTION

Overview

DHC deducts from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to deduct other permissive deductions in accordance with the DHC's policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions.

(a) *Mandatory deductions*. In determining adjusted income, the responsible entity (PHA) must deduct the following amounts from annual income:

(1) $480 for each dependent; (adjusted annually by HUD, rounded to the next lowest multiple of $25);

(2) $525 for any elderly family or disabled family; (adjusted annually by HUD, rounded to the next lowest multiple of $25);

(3) The sum of the following, to the extent the sum exceeds ten percent of annual income:

(i) Unreimbursed health and medical care expenses of any elderly family or disabled family;

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7, Verifications.

Anticipating Expenses

PHA Policy

Generally, DHC will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), DHC will estimate costs based on historic data and known future costs.

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If a family has an accumulated debt for medical or disability assistance expenses, DHC will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. DHC may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, DHC will include those expenses anticipated to be incurred during the 12 months following the certification date reexam which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the PH Occupancy Guidebook states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, Income Determinations, p. 30].

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For annual reexaminations, DHC may use information for the previous 12-month period.

DHC will require the family to provide documentation to support their anticipated expense.

6-III.B. DEPENDENT DEDUCTION

An allowance of $480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)] (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25). *Dependent* is defined as any family member other than the head of household, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents. [24 CFR 5.603(b)].

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6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION

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A single deduction of $525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of $25) [24 CFR 5.611(a)(2)].

An *elderly family* is a family whose head of household, spouse, co-head, or sole member is 62 or older, and a *disabled family* is a family whose head of household, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

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6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(A)(3)(I) AND 5.603(B)]

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten percent (10%) of annual income.

The health and medical care expense deduction is permitted only for families in which the head of household, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a health and medical care expense deduction, the unreimbursed health and medical care expenses of all family members are included. The DHC calculates health and medical care expenses based on the family's past expenses, but accounting for any anticipated changes in expenses during the certification period.

Definition of Medical Expenses

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) (as updated for HOTMA) to mean "any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed."

Health and medical care expenses may be deducted from annual income only if they are eligible under this definition and not otherwise reimbursed.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies to IRS Publication 502. PHAs must review each expense to determine whether it is eligible in accordance with HUD's definition. While PHA policies may not specifically align with IRS Publication 502, HUD recommends PHAs use it as a standard for determining allowable expenses, and the PHA may list examples of allowable expenses in their policy provided they comply with HUD's definition at 24 CFR 5.603. The PHA may not define *health and medical care expenses* more narrowly than the regulation.

PHA Policy

The DHC will use the most current IRS Publication 502 as a standard for determining if expenses claimed by eligible families qualify as health and medical care expenses. However,

under no circumstances will the DHC deduct any expenses listed in IRS Publication 502 that do not conform with HUD's definition of *health and medical care expenses.*

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Summary of Typical Allowable Health and Medical Care Expenses	
Services of medical professionals Surgery and medical procedures that are necessary, legal, and non-cosmetic Services of medical facilities Hospitalization, long-term care, and in-home nursing services Prescription medicines and insulin, but not non-prescription medicines even if recommended by a doctor Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails) Medical insurance premiums or the cost of a health maintenance organization (HMO) Medicare Part B and Part D premiums	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses. The PHA will use the most current medical mileage rate listed in IRS Publication 502. The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) The costs of buying, training, and maintaining a guide dog or other service animal to assist a visually impaired or hearing disabled person, or a person with other physical disabilities. In general, this includes any costs, such as food, grooming, and veterinary care, incurred in maintaining the health and vitality of the service animal so that it may perform its duties.
Note: This chart provides a summary of eligible health and medical care expenses only. In all cases, the DHC will consider whether health and medical expenses care expenses claimed by the family are eligible under HUD's definition.	

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Families That Qualify for Both Health and Medical and Disability Assistance Expenses

PHA Policy

This policy applies only to families in which the head of household, spouse, or co-head is 62 or older or is a disabled person.

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When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, DHC will consider them health and medical care expenses

unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 or older to work; (2) are not paid to a family member or reimbursed by an outside source; (3) in combination with any medical expenses, exceed ten percent (10%) of annual income; and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member, who may be the disabled person, is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

PHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, DHC will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When DHC determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes [New PH OCC GB, *Income Determination,* p. 28].

6-III.F. ELIGIBLE DISABILITY EXPENSES

Examples of auxiliary apparatus are provided in the *PH Occupancy Guidebook* as follows: "Auxiliary apparatus: Including wheelchairs, walkers, scooters, reading devices for persons with visual disabilities, equipment added to cars and vans to permit their use by the family member with a disability, or service

animals" [PH Occ GB, p. 124], but only if these items are directly related to permitting the disabled person or other family member to work [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

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Eligible Auxiliary Apparatus *[Notice PIH 2023-27]*

PHA Policy

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type, or special equipment to assist a person who is deaf or hard of hearing.

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care *[Notice PIH 2023-27]*

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

The family determines the type of attendant care that is appropriate for the person with disabilities.

PHA Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the disabled person to work are eligible.

If the care attendant also provides other services to the family, DHC will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family

member to work. For example, if the care provider also cares for a child who is not the disabled person, the cost of care must be pro-rated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent on each activity and/or the number of persons under care.

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Payments to Family Members

No disability expenses may be deducted for payments to a member of a resident family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the resident family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

PHA Policy

DHC determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, DHC will collect information from organizations that provide services and support to persons with disabilities. A family may present, and DHC will consider, the family's justification for costs that exceed typical costs in the area.

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Families That Qualify for Both Health and Medical and Disability Assistance Expenses

PHA Policy

This policy applies only to families in which the head of household, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, DHC will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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6-III.G. CHILDCARE EXPENSE DEDUCTION

HUD defines *childcare expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age (age 12 and younger) (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses.

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Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

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PHA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, DHC will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

PHA Policy

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each

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reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by DHC.

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Furthering Education

PHA Policy

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full- time student, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

PHA Policy

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Childcare Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income".

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

DHC must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

PHA Policy

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, DHC generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide

information that supports a request to designate another family member as the person enabled to work.

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Eligible Childcare Expenses

The type of care to be provided is determined by the resident family. The PHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare.

Allowable Childcare Activities

PHA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, DHC will pro-rate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be pro-rated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent on each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education; and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

PHA Policy

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, DHC will use the schedule of childcare costs from the local welfare agency or from qualified professional services in the area that either subsidizes childcare costs or licenses childcare providers. Families may present, and DHC will consider, justification for costs that exceed typical costs in the area.

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6-III.H. HARDSHIP EXEMPTIONS [24 CFR 5.611(C), (D), AND (E)]

Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

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Phased-In Relief

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first after the date on which the PHA implements phased-in relief.

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For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
    - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

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When an eligible family's phased-in relief begins at an interim reexamination, the PHA must process another transaction (either an interim reexamination or non-interim transaction, as applicable) one year later to move the family to the next phase.

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Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA.

PHA Policy

The DHC will not continue the phased-in relief for families who move from the HCV program to public housing. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

PHA Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) or that the family's financial hardship is a result of a change in circumstances. The DHC defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexamination in accordance with DHC policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the DHC.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the DHC will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

PHA Policy

The DHC will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the DHC denies the hardship exemption request, the DHC notice will also state that if the family does not agree with the DHC's determination, the family may request a hearing.

If the family qualifies for an exemption, the DHC will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

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The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions.

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PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The DHC will extend relief for an additional 90-days if the family demonstrates to the DHC's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The DHC will require updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the DHC may terminate the hardship exemption if the DHC determines that the family no longer qualifies for the exemption.

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Childcare Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]

A family whose eligibility for the childcare expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the childcare expense deduction, and that the childcare expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the childcare deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

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PHA Policy

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For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The DHC defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the childcare expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (childcare expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the childcare expense is still necessary even though the family member is no longer employed or furthering their education. The DHC will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the DHC will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families with 30 days' notice of any increase in rent.

If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

PHA Policy

The DHC will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the DHC denies the hardship exemption request, the DHC notice will also state that if the family does not agree with the DHC's determination, the family may request a grievance hearing.

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If the family qualifies for an exemption, the DHC will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

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If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

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PHAs must notify the family if the hardship exemption is no longer necessary, and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

PHA Policy

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The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The DHC will extend relief for an additional 90-days if the family demonstrates to the DHC's satisfaction that the family continues to qualify for the hardship exemption. The DHC will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the DHC may terminate the hardship exemption if the DHC determines that the family no longer qualifies for the exemption.

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6-III.I. PERMISSIVE DEDUCTIONS

The PHA may adopt additional permissive deductions from annual income if they establish a policy in the ACOP. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128]. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

If the PHA chooses to adopt permissive deductions, the PHA is not eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of those deductions. The PHA must establish a written policy for such deductions.

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than $90,000 per year.

PHA Policy

The DHC has opted not to use permissive deductions.

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PART IV: CALCULATING RENT

6-IV.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has resident-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by DHC.

TTP Formula [24 CFR 5.628]

HUD Regulations specify the formula for calculating the total tenant payment (TTP) for a tenant family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by DHC.
- The alternative non-public housing rent, as determined in accordance with 24 CFR 960.102

DHC has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-IV.B.

Welfare Rent [24 CFR 5.628]

Welfare rent does not apply in Michigan.

Minimum Rent [24 CFR 5.630]

The minimum rent for DHC is $50.

Optional Changes to Income-Based Rents [24 CFR 960.253(c)(2) and PH Occ GB, pp. 131-134]

PHA's have been given very broad flexibility to establish their own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions.

At the discretion of the PHA, rent policies may structure a system that uses combinations of permissive deductions, escrow accounts, income-based rents, and the required flat and minimum rents.

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The PHA's minimum rent and rent choice policies still apply to affected families. Utility allowances are applied to PHA designed income-based rents in the same manner as they are applied to the regulatory income-based rents.

The choices are limited only by the requirement that the method used not produce a TTP or tenant rent greater than the TTP or tenant rent produced under the regulatory formula.

DHC Policy

The DHC chooses not to adopt optional changes to income-based rents.

DHC shall provide for each family residing in a public housing unit to elect annually whether the rent paid by such family shall be 1) determined based on family income, or 2) the flat rent. DHC may not at any time fail to provide both such rent options for any public housing unit owned, assisted, or operated by DHC.

Ceiling Rents [24 CFR 960.253 (c)(2) and (d)]

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities) [PH Occ GB, p. 135.

PHA Policy

DHC chooses to use ceiling rents.

Utility Reimbursement [24 CFR 960.253(c)(4)]

Utility reimbursement occurs when any applicable utility allowance for resident-paid utilities exceeds the TTP. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

PHA Policy

DHC will pay any utility reimbursements directly to the family.

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The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is $15.00 or less. Reimbursements must be made once per calendar year quarter, either prospectively or retroactively, and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship. The PHA must issue reimbursements that exceed $15.00 per month on a monthly basis.

PHA Policy

The DHC will issue all utility reimbursements monthly.

6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT

Overview

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

PHA Policy

DHC has established a minimum rent of $50.00. DHC will grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

If DHC determines that a hardship exists, the TTP is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

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PHA Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

PHA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or resident-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment

(4) A death has occurred in the family.

PHA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances as determined by DHC.

PHA Policy

The DHC has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

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The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

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PHA Policy

DHC defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days.

The PHA may not evict the family for nonpayment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the PHA has established a minimum rent of $50.	
TTP – No Hardship	**TTP – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

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PHA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

DHC will make the determination of hardship within 30 calendar days.

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No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

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For procedures pertaining to grievance hearing requests based upon the PHA's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

PHA Policy

The DHC will require the family to repay the suspended amount within 30 calendar days of DHC's notice that a hardship exemption has not been granted.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning of the first of the month following the date of the family's request for a hardship exemption.

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At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA may also determine that circumstances have changed, and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon DHC's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

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PHA Policy

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DHC may enter into a Repayment Agreement in accordance with DHC's Repayment Agreement policy only after all attempts have been made to collect the amount due during the 30-day period. (see Chapter 16).

Long-Term Hardship

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

PHA Policy

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The hardship period ends when any of the following circumstances apply:

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(1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a $60/month child support payment, the hardship will continue to exist until the family receives at least $60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

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6-IV.C. UTILITY ALLOWANCES [24 CFR 965, SUBPART E]

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Overview

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, the PHA must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation and Individual Relief

On request from a family, PHA's must approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability [24 CFR 8 and 100, PH Occ GB, p. 172].

Likewise, residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability [PH Occ GB, p. 172].

See Chapter 2 for policies related to reasonable accommodations.

Further, the PHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with an explanation about the additional allowance required.

PHAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company [Utility Allowance GB, p. 19; 24 CFR 965.508].

PHA Policy

The family must request the higher allowance and provide the DHC with information about the amount of additional allowance required.

The DHC will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

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The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the DHC will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or DHC may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all residents at move-in and with any notice of proposed allowances, schedule surcharges, and revisions. The DHC will also provide information on utility relief programs or medical discounts (sometimes referred to as "Medical Baseline discounts") that may be available through local utility providers.

The family must request the higher allowance and provide the DHC with information about the amount of additional allowance required.

At its discretion, the DHC may reevaluate the need for the increased utility allowance as a reasonable accommodation at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or DHC-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

Utility Allowance Revisions

The PHA must review at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to standards described in 24 CFR 965.505, must establish revised allowances.

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The PHA must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rates on which such allowances were based.

Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. Such rate changes are not subject to the 60-day notice [24 CFR 965.507(b)].

The tenant rent calculations must reflect any changes in the PHA's utility allowance schedule [24 CFR 960.253(c)(3)].

PHA Policy

DHC must review its schedule of utility allowances each year.

Between annual reviews, DHC must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based.

Revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

6-IV.D. PRORATED RENT FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. Except for non-public housing over income families, the PHA must prorate the assistance provided to a mixed family. The PHA will first determine TTP as if all family members were eligible and then pro-rate the rent based upon the number of family members that actually are eligible. To do this, DHC must:

(1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.

(2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).

(3) Multiply the member maximum subsidy by the number of eligible family members.

(4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.

(5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

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PHA Policy

Revised public housing flat rents will be applied to a mixed family's rent calculation at the first annual reexamination after the revision is adopted.

(6) When the mixed family's TTP is greater than the applicable flat rent, use the TTP as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

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6-IV.E. FLAT RENTS AND FAMILY CHOICE IN RENTS [24 CFR 960.253]

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Flat Rents [24 CFR 960.253(b)]

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self- sufficient.

Pursuant to 24 CFR Part 960.235, residents of public housing are afforded the opportunity to choose between two methods of determining the amount of rent the family will pay. These options are flat rent or income-based rent.

Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

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Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and reviews of flat rents are contained in Chapter 16.

HUD uses FMRs to help determine Public Housing Flat Rents, which must be set at 80% of FMR or more (PIH Notice 2021-27). 42 USC 1437f requires HUD to post FMRs at least 30 days before they are effective and that they are effective at the start of the federal fiscal year, generally October 1, with 90 days to implement the FMR, from the effective date. DHC's Low-Income Public Housing Program uses FMRs for the Detroit-Warren-Livonia, MI HUD Metro Area.

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There is no utility allowance or reimbursement with flat rents. When the family elects to pay the flat rent, the flat rent amount quoted to the family is the amount the family pays.

Family Choice in Rents

With the exception of non-public housing over income families, once each year, the PHA must offer families the choice between a flat rent and an income- based rent. The family may not be offered this choice more than once a year. The PHA must document that flat rents were offered to families under the methods used to determine flat rents for the PHA.

PHA Policy

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The annual DHC offer to a family of the choice between flat and income-based rent will be conducted upon admission and upon each subsequent annual reexamination.

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DHC will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the resident file as part of the admission or annual reexamination process.

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DHC must provide sufficient information for families to make an informed choice. This information must include DHC's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year DHC is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

Switching from Flat Rent to Income-Based Rent Due to Hardship [24 CFR 960.253(f)]

With the exception of non-public housing over-income families, A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If the PHA determines that a financial hardship exists, the PHA must immediately allow the family to switch from flat rent to the income-based rent.

PHA Policy

Upon determination by DHC that a financial hardship exists, DHC will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request.

Reasons for financial hardship include:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance
- The family has experienced an increase in expenses, because of changed circumstances for medical costs, childcare, transportation, education, or similar items
- Such other situations determined by DHC to be appropriate.

PHA Policy

DHC considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent [PH Occ GB, p. 137].

Phasing in Flat Rents

When new flat rents requirements were implemented in 2014, HUD limited the increase for existing residents paying flat rent at that time to no more than 35 percent of the current tenant rent per year. In some cases, this meant that some residents had or will have their flat rents phased-in at the time of their annual recertification. To do this, DHC must conduct a flat rent impact analysis to determine whether a

phase-in is or was necessary. For families whose flat rent is being phased-in, DHC must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under DHC's policies.

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Families who have subsequently been admitted to the program or have subsequently selected flat rent will not experience a phase-in.

Notice PIH 2015-13 requires that flat rents must be phased in at the full 35 percent per year. DHC does not have the option of phasing in flat rent increases at less than 35 percent per year.

Flat Rent Impact Analysis Calculation

In order to conduct a flat rent impact analysis, DHC must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under DHC's policies.

Example: A family was paying a flat rent of $500 per month. At their annual recertification, DHC has increased the flat rent for their unit size to $700. DHC would conduct a flat rent impact analysis as follows:

$500 x 1.35 = $675

Since DHC's increased flat rent of $700 would result in a rent increase of more than 35 percent, DHC would offer the family the choice to pay either $675 per month or an income-based rent. The flat rent increase would need to be phased in.

DHC will conduct a flat rent impact analysis to determine the percentage increase in the family's rent amount. If the increase is greater than 35 percent, DHC will phase in the rent increase at the maximum amount annually over a three (3) year period so that it does not exceed 35 percent in any year until the flat rent is fully phased in. If the increase is 35 percent or less, there will be no phase-in.

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EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION

24 CFR 5.609

(a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds the HUD-published threshold amount (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

(b)Annual income does not include the following:

(1) Any imputed return on an asset when net family assets are less than or equal to the HUD-published threshold amount (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

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(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from— (

1) The Federal government;

(2) A State, Tribe, or local government;

(3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);

(4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

(5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (

3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)€ of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

(1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;

(2) Expressly to assist a student with the costs of higher education; or

(3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

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(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

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(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

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(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

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EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS

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24 CFR 5.603(b) Net Family Assets

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not exceed the HUD-published threshold amount (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

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EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) *Definitions.* The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) *Imputed welfare income.*

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

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(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) *Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) *PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction

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CHAPTER 7.B.: VERIFICATION UNDER HOTMA 102/104

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Use After
HOTMA Compliance Date Only

INTRODUCTION

This chapter is applicable upon the PHA's HOTMA 102/104 compliance date. Prior to this date, the PHA will follow policies as outlined in Chapter 7.A. of the model policy.

DHC must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. DHC must not pass on the cost of verification to the family.

DHC must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

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Part I describes the general verification process.

Part II provides more detailed requirements related to family information. **Part III** provides information on income and assets, and **Part IV** covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by DHC.

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PART I: GENERAL VERIFICATION REQUIREMENTS

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7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION

The family must supply any information that the DHC determines is necessary to the administration of the program and must consent to DHC's verification of that information.

Consent Forms

Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. DHC must use for HUD 9886-A, although this form does not release all the information necessary to the administration of the program. DHC will also develop its own release forms to cover all other necessary information.

Form HUD 9886-A

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All adult applicants and residents must sign form HUD-9886-A, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886-A at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886-A at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886-A be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886-A at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886-A will not be submitted to the PHA except under the following circumstances:

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- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886-A within 10 business days of turning 18 years of age.

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The purpose of form HUD-9886-A is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD

and DHC may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

DHC may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever DHC determines, the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to DHC to revoke consent.

Penalties for Failing to Consent

If any family member who is required to sign a consent form fails to do so, DHC will deny admission to applicants and terminate the lease of residents. The family may request a hearing in accordance with DHC's grievance procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

DHC has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with DHC policy.

In order for a family to revoke their consent, the family must provide written notice to DHC.

Within 10 business days of the date the family provides written notice, DHC will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, DHC will notify the local HUD office.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS - USE OF OTHER PROGRAMS' INCOME DETERMINATIONS

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms

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of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs. Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Tax Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register.*

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

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The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

PHA Policy

When available and applicable, the PHA will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The PHA will still require third-party verification of all deductions such as the health and medical care expense or childcare expense deductions. Further, if the family is eligible for and claims the disability assistance expense or childcare expense deductions, where applicable, the PHA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the PHA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the PHA will obtain third-party verification of all sources of income and assets (as applicable).

The PHA will not accept other programs' determinations of income for any new admission or interim reexamination.

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With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the PHA will accept Safe Harbor determinations from any of the programs listed above.

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In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;
- State the family size;
- Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and
- Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the PHA does not receive any acceptable income determination documentation or is unable to obtain documentation, then the PHA will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, the PHA will use the most recent income determination, unless the family presents acceptable evidence that the PHA should consider an alternative verification from a different Safe Harbor source.

When the PHA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the PHA. Depending on when the change occurred, the change may or may not impact the PHA's calculation of the family's total annual income. Changes that occur between the time the PHA receives the Safe Harbor documentation and the effective date of the family's annual reexamination will not be considered. If the family has a change in income that occurs after the annual reexamination effective date, the PHA will conduct an interim reexamination if the change meets the requirements for performing an interim reexamination as outlined in Chapter 9. In this case, the PHA will use third-party verification to verify the change.

7-I.C. STREAMLINED INCOME DETERMINATIONS

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all

income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

PHA Policy

When the PHA does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then PHA will use a streamlined income determinations where applicable.

Regardless of the percent of a family's unadjusted income from fixed income sources:

- The PHA will streamline the annual reexamination process by applying the verified COLA/inflationary adjustment factor to fixed-income sources.
- The family will be required to sign a self-certification stating that their sources of fixed income have not changed from the previous year.
- The PHA will document in the file how the determination that a source of income was fixed was made.
- If the family's sources of fixed income have changed from the previous year, the PHA will obtain third-party verification of any new sources of fixed income.
- All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the PHA will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

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- Of all assets when net family assets exceed the HUD-published threshold ($50,000 for 2024, and $51,600 for 2025);
- Of all deductions and allowances from annual income;
- If a family member with a fixed source of income is added;
- If verification of the COLA or rate of interest is not available;
- During the intake process and at least once every three years thereafter.

7-1.D. VERIFICATION HIERARCHY

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds the HUD-published threshold, as listed in HUD's Inflation-Adjusted Values tables ($50,000 for 2024, and $51,600 for 2025);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. DHC will use the most reliable form of verification that is available and will document the reasons when it uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third-party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the forms of verification that DHC will use are:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-HUD EIV system
- High: Level 4: Written Third-Party Verification from the source, also known as "tenant-provided verification" which may be provided by applicant or resident Written Third-Party Verification Form
  -Or EIV plus self-certification
- Medium: Level 3: Written Third-party Verification Form
- Medium: Level 2: Oral Third-Party Verification Self-Certification

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- Low: Low Level 1: Self-Certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

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Requirements for Acceptable Documents

Any documents used for verification must be the original, not photocopies, deemed by DHC as an authentic document, and generally must be dated within 120 days preceding the reexamination or DHC request date. The documents must not be damaged, altered or in any way illegible. Any documents used for verification for admissions or recertifications will be considered current for 90 days from the date of receipt.

Verifications may be extended for an additional 30 days with a telephone update. (A record of the update, including the name and title of the individual contacted, must be placed in the applicant's file.) Verified information not subject to change (such as a person's date and place of birth) need not be re-verified. Information obtained that is subject to change, and for which verifications are more than 90 days old, should be reverified.

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Print-outs from web pages may be considered original documents.

A DHC staff member who views the original document must make a photocopy and annotate the copy with the name of the person who provided the document and the date the original was viewed.

Use After

Any family self-certifications must be made in a format acceptable to DHC and must be signed in the presence of a DHC representative.

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File Documentation

DHC must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that DHC has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

DHC will document, in the family file, the following:

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- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

At the time DHC accepts a self-certification because it is unable to obtain third-party verification, DHC will document in the family file the reason that third-party verification was not available.

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7.I.E. LEVEL 5 AND 6 VERIFICATIONS: UP-FRONT INCOME VERIFICATION (UIV)

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Up-front income verification (UIV) refers to DHC's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to DHC.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until DHC has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through DHC's informal review/hearing processes. ~~For more on UIV and income projection, see section 6-I.C.~~

~~Up-front Income Verification Using~~ HUD's Enterprise Income Verification (EIV) System ~~(Mandatory)~~

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PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for resident families.

Use After

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

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The following policies apply to the use of the EIV system.

EIV Income ~~and IVT~~ Reports

PHAs are required to obtain an EIV Income Report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income Report:

- At annual reexamination if the PHA used Safe Harbor verification from another means-tested federal assistance program to determine the family's income; or
- During any interim reexaminations.

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The EIV Income Report is also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual reexamination.

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The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

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PHA Policy

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the PHA will obtain an EIV Income Report for all annual reexaminations for all families on a monthly basis. Reports will be generated as part of the regular reexamination process. The PHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income reports will be retained in resident files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of tenancy.

When the PHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

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New Hires Report [Notice PIH 2023-27]

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

PHA Policy

In accordance with PHA policies in Chapter 9, the PHA does not process interim reexaminations for families who have increases in earned income. Except for instances in which the PHA uses Safe Harbor income determinations to determine a family's annual income, the PHA will only review the New Hires Report at annual reexamination.

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No Income Reported by HHS or SSA Report

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that the tenant does not have any income. PHAs obtain written, third-party verification of any income reported by the tenant. The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

PHA Policy

The PHA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The PHA will re-verify the status of tenants identified on the report quarterly. Based on the information provided by the family and in EIV, the PHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the PHA determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Discrepancy Reports

When DHC determines that a resident appearing on the Income Discrepancy Report has not concealed or under-reported income, the resident's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, residents appearing on this list will be eliminated from discrepancy processing until a subsequent interim or annual reexamination has been completed. DHC will review the EIV discrepancy tab during processing of annual and interim reexaminations.

When it appears that a family may have concealed or under-reported income, DHC will request independent written third-party verification of the income in question.

When DHC determines through file review and independent third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

EIV Identity Verification

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth.

When identity verification for a resident fails, a message will be displayed within the EIV system and no income information will be displayed.

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DHC will identify residents whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis.. When DHC determines that discrepancies exist as a result of DHC errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

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Deceased Tenants Reports

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

The PHA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The PHA must conduct a home visit to determine if anyone is residing in the unit.

PHAs are required to list the move-out date for the family as of the date on which the family or designee of the deceased tenant's estate returned the keys and signed a vacate notice; the date the public housing lease was terminated; or the date the PHA legally regained possession of the unit, whichever occurs first.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

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Other EIV Reports

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

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Upfront Income Verification Using Non-HUD Systems

HUD encourages PHAs to utilize other upfront verification sources.

DHC will inform all applicants and residents that it may use non-HUD systems to which DHC to perform up-front income verification.

7-I. F. LEVEL 4 VERIFICATION

HUD's ~~s current verification hierarchy~~ identifies two types of Level 4 verification: written third-party verification from the source and EIV + self-certification.

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EIV + Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

At annual reexamination, if DHC is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, DHC will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

DHC will use an average of the last two quarters of income listed in EIV to determine income from employment. DHC will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with using only the last two quarters of income listed in EIV, because of the seasonal or otherwise fluctuating nature of a particular family member's employment, DHC will permit the family to sign a self-certification stating that the average of all four quarters of income listed in EIV is accurate and representative of current annual income and use that amount for calculating annual income. If the family disagrees and contends that the amount listed in EIV is not reflective of current income, or if less than two quarters are available in EIV, DHC will use written third-party verification from the source as outlined below.

DHC will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as "tenant-provided verification." In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. The PHA may use the verification obtained during an interim reexamination for an annual reexamination if there have been no other changes to annual income since the interim reexamination. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable resident-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written,

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third-party verification. DHC is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

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When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

In general, DHC will use third-party verification from the source in the following circumstances:

- At annual reexamination when EIV + self-certification is not used;
- For all new admissions; and
- For all interim reexaminations.

DHC will not use this method if DHC is able to use an income determination from a means-tested federal assistance program or if the PHA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by DHC. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

DHC may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If DHC determines that third-party documents provided by the family are not acceptable, DHC will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the PHA will obtain one statement that reflects the current balance of the account.

When pay stubs are used, DHC will require the family to provide the two most current, consecutive pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PHA may request additional paystubs or a payroll record.

7-I.G. LEVEL 3 VERIFICATION: WRITTEN THIRD-PARTY VERIFICATION FORM

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification."

PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

Typically, DHC will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, DHC may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

7-I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION

For third-party oral verification, DHC will contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time, e.g., 10business days.

DHC staff must document in the family's file the name and title of the person contacted, the date and time of the conversation or visit, or attempt, the telephone number used, and the the information confirmed.

When Third-Party Verification is Not Required

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

If the family cannot provide original documents, the DHC will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost. DHC is not required to verify fully excluded income.

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

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Imputed Assets

DHC may accept a self-certification from the family as verification of assets disposed of for less than fair market value.

Value of Assets and Asset Income

For families with net assets totaling $5,000 or less, DHC will accept the family's self- certification of the value of family assets and anticipated asset income when applicable.

The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

DHC will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three (3) years thereafter.

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7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.

Use After
HOTMA Compliance Date Only

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded.
- Net family assets are less than or equal to the HUD-published threshold ($50,000 for 2024, and $51,600 for 2025) and DHC has adopted a policy to accept self- certification
- The family declares that they do not have any present ownership in any real property;
- A family reports zero income;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- DHC has adopted a policy to implement streamlined verification for fixed sources of income.
- When information cannot be verified by a third-party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to DHC.

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- DHC may require a family to certify that a family member does not receive a particular type of income or benefit.
- The self-certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

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All self-certifications will include the following language:

"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties

When the PHA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

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Use After
HOTMA Compliance Date Only

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

DHC will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers	Certificate of birth
Church issued baptismal certificate	Adoption papers
Current, valid driver's license or Department of Motor Vehicle identification card	Custody agreement
U.S. military discharge (DD 214)	Health and Human Services ID
	Certified school records

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Current U.S. passport Current government employer identification card with picture	

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If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the PHA and be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing themselves to be a tenant or a member of a tenant family.

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7-II.B. SOCIAL SECURITY NUMBERS

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing residents who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN. DHC must accept the following documentation as acceptable evidence of the SSN:

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- An original SSN card issued by the Social Security Administration (SSA);
- An original SSA-issued document, which contains the name and SSN of the individual;
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

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The PHA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

DHC may reject documentation of an SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

DHC will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to DHC within 90 days.

If an applicant family includes a child under six (6) years of age who joined the household within the six (6) months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if the DHC determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

DHC will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When the resident requests to add a new household member who is at least six (6) years of age, or who is under the age of 6 and has an SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. DHC may not add the new household member until such documentation is provided.

When a resident requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the DHC determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period DHC is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

DHC will grant one additional 90-day extension if needed for reasons beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

The SSN must be verified only once during continuously assisted occupancy. DHC will verify each disclosed SSN by:

- Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers.
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder.

DRAFT Use After HOTMA Compliance Date Only

Once an individual's status is classified as "verified" in EIV, DHC may remove and destroy copies of documentation accepted as evidence of SSNs.

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Use After
HOTMA Compliance Date Only

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of social security retirement benefits cannot be provided, DHC will require the family to submit other documents that support the reported age of the family member such as school records, driver's license (if birth year is recorded), and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

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7-II.D. FAMILY RELATIONSHIPS

Applicants and residents are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

Use After

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

HOTMA Compliance Date Only

Marriage

Verification of marriage status is a marriage license.

Separation or Divorce

Verification of divorce status will be by certified or true copy of the divorce decree signed by a court officer.

Verification of separation will be by certified or true copy of the separate maintenance decree signed by a court officer.

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HOTMA Compliance Date Only

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

If an adult who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family, e.g., documentation of another address at which the person resides such as a lease or utility bill.

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Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

DHC requires families to provide information about the status of all students who are 18 years of age or older. This information will be verified only if:

- The family claims full-time student status for an adult other than the head of household, spouse, or co-head, or
- The family claims a childcare deduction to enable a family member to further his or her education.

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7-II.F. DOCUMENTATION OF DISABILITY

DHC must verify the existence of a disability in order to allow certain income disallowances and deductions from income. DHC is not permitted to inquire about the nature or extent of a person's disability. DHC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If DHC receives a verification document that provides such information, DHC will not place this information in the resident file. Under no circumstances will DHC request a resident's medical record(s). DHC may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities:

- Inquire into an applicant's ability to meet the requirements of ownership or tenancy;
- Inquire to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability;
- Inquire to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability;
- Inquire about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance; or

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- Inquire about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

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Family Members Receiving SSA Disability Benefits

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions.

For family members claiming disability who receive disability payments from the SSA, DHC will first attempt to obtain information about disability benefits through EIV. If documentation is not available through EIV, DHC will request a current, i.e., dated within the appropriate benefit year, SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, DHC will ask the family to obtain a benefit verification letter either by calling SSA or by requesting one from the SSA website. The family must provide the benefit verification letter to DHC.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, workers' compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets the definition of disability necessary to qualify for waiting list preferences or certain income disallowances and deductions.

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Pro-rated assistance is provided for "mixed families" containing both eligible and ineligible persons. See the Eligibility Chapter for detailed discussion of eligibility requirements; Chapter 7 discusses HUD and DHC verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible non-citizen or an ineligible non-citizen and submit the documents discussed below

for each family member. Once eligibility to receive assistance has been verified for an individual, it need not be collected or verified again during continuously assisted occupancy.

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U.S. Citizens and Nationals

DHC requires a declaration, under penalty of perjury, for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

DHC may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless DHC receives information indicating that an individual's declaration may not be accurate.

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Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

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The documentation required for eligible non-citizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD- funded assistance.

DHC Verification

For family members aged 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, DHC must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

DHC will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

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DHC must verify any preferences claimed by an applicant that determined their placement on the waiting list.

DHC offers a preference for families displaced by a Federally declared disaster occurring after July 1, 2005, described in Section 4-III.B. A Family that claims it is being or has been displaced due to such a disaster must provide written verification.

DHC may also seek third-party verification from an agency or other professional declared by the family as being knowledgeable of the family's displacement due a Federally declared disaster.

Families referred under MOU between DHC and partner approved agency.

For families which claim to be eligible for the elderly preference, the family must provide documentation which verifies that the head of household, spouse or co-head is at least 62 years of age, in accordance with Section 7-II.C of this ACOP.

VAWA - Victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking as described in Section 4-III.B. To verify that applicants qualify for the preference, the PHA will follow documentation requirements outlined in Section 16-VII.D.

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Use After
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PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides DHC policies that supplement the general verification procedures specified in Part I of this chapter.

The following policies do not apply when DHC uses a Safe Harbor income determination from a means-tested federal assistance program.

7-III.A. EARNED INCOME

Tips

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

DHC may use actual past income from tips in determining annual income.

Wages

When DHC requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

7-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME

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The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not have to file tax returns, the PHA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the PHA will provide a format for the individual to declare their income and expenses. The PHA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

DHC will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination DHC may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, DHC may accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months DHC will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

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For policies governing streamlined income determinations for fixed sources of income, please see Chapter 9.

Social Security/SSI Benefits

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Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

Since EIV does not contain SS or SSI benefit information, to verify the SS/SSI benefits of applicants, DHC may request a current, i.e., dated within the appropriate benefit year, SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, DHC may help the applicant request a benefit verification letter or ask the family to request one by calling SSA. Once the family has received the original benefit verification letter, it will be required to provide the letter to DHC.

To verify the SS/SSI benefits of residents, DHC will obtain information about social security/SSI benefits through EIV and confirm with the resident(s) that the current listed benefit amount is correct.

> If the resident agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as $450.80 and EIV displays the amount as $450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.

If the resident disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, DHC will request a current SSA benefit verification letter from each family member that receives social security benefits (dated within the appropriate benefit year). If a family member is unable to provide the document, DHC may help the resident request a benefit verification letter or ask the family to request one. Once the family has received the benefit verification letter, it will be required to provide the letter to DHC.

Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

7-III.D. ALIMONY OR CHILD SUPPORT

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

Verification will be sought in the following order of priority:

Copy of the receipts and/or payment stubs for the 12 months prior to DHC's request

Third-party verification form from the state or local child support enforcement agency.

Third-party verification form from the person paying for the support.

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it receives irregular or no payments, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

Note: Families are not required to undertake independent enforcement action.

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7-III.E. NONRECURRING INCOME

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

DHC will accept self-certification from the family stating that income will not be repeated in the coming year. However, the PHA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

7-III.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets

At admission and reexam, for families with net assets less than or equal to the HUD-published threshold listed in HUD's current year Inflation-Adjusted Values tables ($50,000 for 2024, $51,600 for 2025), DHC may, but is not required to, accept the family's self-certification that the family's assets do not exceed the HUD-published threshold without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value

of non-necessary personal property does not exceed the HUD-published threshold), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

DHC may choose to accept self-certification and will be required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

When net family assets have a total value over the HUD-published threshold, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed the HUD-published threshold.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

For families with net assets less than or equal to the HUD-published threshold listed in the current year's Inflation-Adjusted Values tables, DHC will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show the total amount of income expected from all assets. All family members 18 years of age and older must sign the family's declaration. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, DHC will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the PHA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Self-Certification of Real Property Ownership

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3. The PHA may accept a self-certification from the family stating that the family does not have any present ownership in any real property. If the family certifies that they do not have any present ownership interest in real property, the PHA may take that as sufficient to determine the family is not out of compliance with the real property restriction. If the family declares they have present ownership in real property, the PHA must obtain third-party verification of the family's legal right to

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reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

DHC will accept self-certification from the family stating that the family does not have any present ownership in any real property. The certification must be signed by all family members 18 years of age and older. DHC reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the PHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, DHC will comply with confidentiality requirements and will accept a self-certification.

7-III.G. NET INCOME FROM RENTAL PROPERTY

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant.

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, DHC will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.H. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are less than or equal to the HUD-published threshold listed in HUD's current year Inflation-Adjusted Values tables ($50,000 for 2024, $51,600 for 2025), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than the HUD-published threshold.

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7-III.I. RETIREMENT ACCOUNTS

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DHC will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.J. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I of this ACOP.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds).

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PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

Use After
HOTMA Compliance Date Only

DHC may accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.

DHC will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7-III.K. ZERO INCOME FAMILIES

PHAs have discretion to establish reasonable procedures to manage the risk of unreported income, such as asking families to complete a zero-income worksheet at admission or periodically after admission to determine if they have any sources of unreported income or searching any UIV sources for unreported income.

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Use After
HOTMA Compliance Date Only

In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family.

PHAs may accept a self-certification of zero income from the family without taking any additional steps to verify zero reported income. HUD does not require such self-certifications be notarized.

PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

DHC will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by families claiming to have zero annual income.

DHC will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, the PHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

DHC will conduct interims in accordance with PHA policy in Chapter 11.

7-III.L. STUDENT FINANCIAL ASSISTANCE

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are included [24 CFR 5.609(b)(9)(ii).

DHC will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, DHC will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If DHC is unable to obtain third-party written verification of the requested information, DHC will pursue other forms of verification following the verification hierarchy in section 7-I.B.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that DHC verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

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Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. DHC will verify that:

Any person under the age of 18 for whom the dependent deduction is claimed is not the head of household, spouse or co-head of the family and is not a foster child.

Any person aged 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide and is a person with a disability or a full-time student.

Elderly/Disabled Family Deduction

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. DHC will verify that the head of household, spouse, or co-head is 62 years of age or older or a person with disabilities.

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7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Use After

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

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The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information.

Amount of Expense

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

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DHC will make a best effort to determine what expenses from the past are likely to continue to occur in the future. DHC will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms, if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family self-certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, DHC must verify that the household is eligible for the deduction.

The costs to be deducted are qualified medical expenses.

The expenses are not paid for or reimbursed by any other source.

Costs incurred in past years are counted only once.

Eligible Household

The health and medical expense deduction is permitted only for households in which the head of household, spouse, or co-head is at least 62 or a disabled person. DHC will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this ACOP.

Qualified Expenses

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for DHC's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, DHC must verify:

- The anticipated repayment schedule;
- The amounts paid in the past; and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years.

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7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information.

Amount of Expense

Attendant Care

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider if family-provided documents are not available.

If third-party verification is not possible, written family self-certification as to costs anticipated to be incurred for the upcoming 12 months.

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider if family-provided documents are not available.

If third-party or document review is not possible, written family self-certification of estimated apparatus costs for the upcoming 12 months.

In addition, DHC must verify that the family member for whom the expense is incurred is a disabled person (as described in 7-II.F above).

The expense permits a family member, or members, to work (as described in 6). The expense is not reimbursed from another source (as described in 6).

Family Member is a Person with Disabilities

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To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. DHC will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

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Family Member(s) Permitted to Work

DHC must verify that the expenses claimed actually enable a family member, or members, including the disabled person, to work.

DHC will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the disabled person requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must self-certify that the disability assistance expense frees a family member, or members, possibly including the family member receiving the assistance, to work.

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Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

The family will be required to self-certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

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7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I.

In addition, DHC must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

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Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. DHC will verify that the child being cared for, including foster children is under the age of 13 (See 7-II.C.).

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Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

The family will be required to self-certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

DHC must verify that the family member(s) identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Information to be Gathered

DHC will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible, DHC will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases DHC will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to DHC any reports provided by the other agency. In the event third-party verification is not available, DHC will provide the family with a form on which the family member must record job search efforts. DHC will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

DHC will request third-party documentation to verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

DHC will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

The documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family but must fall within certain guidelines, as discussed in Chapter 6.

DHC will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

DHC will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., pro-rate costs if some of the care is provided for ineligible family members).

DHC will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit .

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

The actual costs the family incurs will be compared with typical costs in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the locality, DHC will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Exhibit 7-1: Summary of Documentation Requirements for Noncitizens
[HCV GB, pp. 5-9 and 5-10)

- **All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

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CHAPTER 9.B.: REEXAMINATIONS UNDER HOTMA 102/104

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INTRODUCTION

This chapter is applicable upon the PHA's HOTMA 102/104 compliance date. Prior to this date, the PHA will follow policies as outlined in Chapter 9.A. of the model policy.

DHC is required to monitor each family's income and composition over time, and to adjust the family's rent accordingly. DHC must adopt policies concerning the conduct of annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies.

The frequency with which DHC must reexamine income for a family depends on whether the family pays income-based or flat rent. This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains DHC's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every three (3) years. This part also contains DHC's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes DHC policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, DHC must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination. Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

Part V: Non-Interim Reexamination Transactions. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

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PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, DHC must conduct a reexamination of income and family composition at least annually. For families who choose flat rents, DHC must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every three (3) years. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, DHC must conduct an annual review of community service requirement compliance.

DHC is required to obtain information needed to conduct reexaminations. How that information will be collected is left to DHC's discretion. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

Unlike when performing an interim reexamination or at intake, at annual reexamination, the PHA must determine the income of the family for the previous 12-month period, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. PHAs also have the option of using a "Safe Harbor" income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA's policies related to streamlined income determinations and the use of Safe Harbor income verifications.

This part contains DHC's policies for conducting annual reexaminations.

9-I.B. SCHEDULING ANNUAL REEXAMINATIONS

PHA Policy

Generally, DHC may schedule annual reexaminations to coincide with the family's anniversary date. DHC will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

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Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family transfers to a new unit, DHC will perform an interim reexamination; however, the annual anniversary date will remain the same.

DHC may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

HUD permits DHC to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three (3) years thereafter, in the intervening years DHC may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. DHC may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, DHC must perform third-party verification of all income sources.

Fixed sources of income include the following:

5. Social Security payments, to include Supplemental Security Income (SSI) and
6. Supplemental Security Disability Insurance (SSDI);
7. Federal, state, local, and private pension plans; and
8. Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments.
9. Other sources of income subject to a COLA or rate of interest.

The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

DHC will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. DHC will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, DHC will use third-party verification of all income amounts for that family member. If verification of the COLA or rate of interest is not available, DHC will obtain third-party verification of fixed income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three (3) years thereafter.

Notification of and Participation in the Annual Reexamination Process

DHC is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to DHC's discretion. However, residents who were not provided the opportunity to provide contact information at the time of admission will be provided the option to complete Form HUD-92006 at this time. DHC will provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination.

PHA Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, co-head, and all other adult family members. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact DHC to request a reasonable accommodation.

Notification of annual reexamination interviews will be sent by mail or hand delivered and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact DHC in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview DHC will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without DHC approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

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9-I.C. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

PHA Policy

Families will be asked to provide all required information, as described in the reexamination notice, for the reexamination appointment. The required information will include a DHC- designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice (HUD 9886), as well as supporting documentation related to the family's income, expenses, and family composition. Reexamination appointments may be conducted in-person or virtually, at DHC's discretion.

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Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame, plus any extensions, the family will be in violation of its lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or DHC has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

7. Legal identity
8. Age
9. Social security numbers
10. A person's disability status
11. Citizenship or immigration status
12. Change in Unit Size

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. DHC may use the results of the annual reexamination to require the family to move to an appropriate size unit. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

PHA Policy

Each household member aged 18 and older will be required to execute a consent form for a criminal background check as part of the annual reexamination process and DHC may utilize the consent to conduct a criminal history check at any time utilizing the consent provided upon admission or the consent provided while the household member is an occupant.

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Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

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PHA Policy

At the annual reexamination, the PHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The PHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)

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Compliance with Community Service

For families who include non-exempt individuals, DHC will determine compliance with community service requirements once every 12 months.

See Chapter 11 for DHC's policies governing compliance with the community service requirement.

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9-I.D. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(C)(2) AND NOTICE PIH 2023-27]

The PHA must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the PHA uses a streamlined income determination. The PHA may also use Safe Harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination.

Except when using streamlined or Safe Harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

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A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from

either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

Step 1: The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

Step 2: The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed within the last reexamination cycle and there are no additional changes, the PHA must use the annual income from the interim to determine the family's total annual income. The PHA may use verification obtained from the interim for this step.
- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step 3.

Step 3: If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)

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- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - Year-end statements
  - Paystub with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 9-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

PHA Policy

When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with PHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the PHA or other agency's determination of income or the PHA has other reason to use third-party verification in these circumstances, then the above will apply.

9-I.D. EFFECTIVE DATES

PHA Policy

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the family causes a delay in processing the annual reexamination, increases in the family share of the rent will be applied retroactively to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a Repayment Agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If the family causes a delay in processing the annual reexamination, decreases in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

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Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by DHC by the date specified, and this delay prevents DHC from completing the reexamination as scheduled.

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PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

9-II.A. OVERVIEW

This part contains DHC's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

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Frequency of Reexamination

For families paying flat rents, DHC will conduct a full reexamination of family income and composition once every three (3) years.

However, for flat rent families who become over-income, this policy will not apply. The PHA will instead conduct an interim reexamination at 12 and 24 months following the initial over-income determination as needed to verify the family remains over-income. The family will continue to be given a choice between income-based and flat rent at each annual reexamination during the over-income grace period.

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If the family is subsequently determined to no longer be over-income:

If the determination is the result of an annual reexamination, the family will be given a choice between income-based or flat rent at reexam. If the family selects flat rent, the PHA will resume reexamination of family income and composition once every three years.

If determination is as a result of an interim reexamination, the PHA will conduct an annual reexamination for the family at their next scheduled annual date. If the family selects flat rent, the PHA will resume reexamination of family income and composition once every three years. Families will only be given the choice between income-based and flat rent at annual reexamination.

Reexamination Policies

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In conducting full reexaminations for families paying flat rents, DHC will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

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9-II.C. REEXAMINATION OF FAMILY COMPOSITION ("ANNUAL UPDATE")

As noted above, if full reexaminations are conducted every three years for families paying flat rents, in the years between full reexaminations, regulations require the PHA to conduct a reexamination of family composition ("annual update") [24 CFR 960.257(a)(2)]. Over-income families who select the flat rent are not subject to annual update as their income must be reviewed, and an interim reexamination conducted, at 12 and 24 months as applicable.

The annual update process is similar to the annual reexamination process, except that the PHA does not collect information about the family's income and expenses, and the family's rent is not recalculated following an annual update.

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Scheduling

PHA Policy

For families paying flat rents, annual updates for family composition will be conducted in each of the two (2) years following the full reexamination.

Use After

In scheduling the annual update, DHC will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

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Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

PHA Policy

Generally, the family will not be required to attend an interview for an annual update. However, if DHC determines that an interview is warranted, the family may be required to attend.

Notification of the annual update will be sent by mail or hand delivered and will inform the family of the information and documentation that must be provided to DHC. The family will have 10 business days to submit the required information to DHC. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. DHC will accept required documentation by mail, by fax, by email, or in person.

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If the family's submission is incomplete, or the family does not submit the information in the required time frame, DHC will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to DHC.

If the family does not provide the required documents or information within the required time frame, plus any extensions, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. DHC may use the results of the annual update to require the family to move to an appropriate size unit. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

PHA Policy

Each household member aged 18 and older will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include non-exempt individuals, DHC must determine compliance with community service requirements once every 12 months.

See Chapter 11 for DHC's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS

9-III.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations.

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This part includes DHC policies describing what changes families are required to report, what changes families may choose to report, and how DHC will process both DHC- and family-initiated interim reexaminations.

Interim reexamination appointments may be conducted in-person or virtually, at DHC's discretion.

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

Reporting

DHC must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, the PHA has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

PHA Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates) within 10 business days of the change.

For additions to the household composition, the income of new family member(s) must be included in the income and rent re-determination, and the family's rent will be adjusted accordingly effective the first of the month following a written 30-day notice of the rent increase.

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New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require DHC approval. However, the head of household must inform DHC of the birth, adoption, or court-awarded custody of a child within 10 business days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court- awarded custody, a family must request DHC's approval to add a new family member or other household member, i.e., a live-in aide or foster child. DHC may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which DHC consent will be given or denied. Under such policies, the factors considered by DHC may include:

- Whether the addition of a new household member may necessitate a transfer of the family to another unit, and whether such units are available.
- The PHA's obligation to make reasonable accommodation for persons with disabilities.

DHC's obligation to make reasonable accommodation for persons with disabilities.

Families must request DHC approval to add a new family member (other than due to birth, adoption, or court-awarded custody), live-in aide, foster child, child caretaker or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by DHC before the individual moves into the unit.

DHC will not approve the addition of new family or household members other than by birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit under the transfer policy in Chapter 12, unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by DHC.

DHC will not approve the addition of adult family members who previously resided at a DHC development for a period of one (1) year from the date that the adult family member moved out of DHC housing. Exceptions must be approved by the Director of Real Estate Management or designee. DHC will not approve the addition of a new family or household member unless the individual meets DHC's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If DHC determines that an individual does not meet DHC's eligibility criteria or documentation requirements, DHC will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

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DHC will make its determination within 15 business days of receiving all information required to verify the individual's eligibility.

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Departure of a Family or Household Member

PHA Policy

If a family member ceases to reside in the unit, the family must inform DHC within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform DHC within 10 business days of the occurrence of the income change.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

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Interim reexaminations can be scheduled either because DHC has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, DHC may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so. Families must report income changes within 10 business days of the occurrence of the income change.

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PHA Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

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- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

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If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

PHA Policy

DHC will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

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Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27]

Increases Less than 10 Percent

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

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Increases 10 Percent or Greater

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

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- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

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PHA Policy

When a family reports an increase in their earned income between annual reexaminations, DHC will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

DHC will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

DHC will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with DHC policies in Chapter 15.

Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

Cumulative Increases [Notice PIH 2023-27]

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

Public Housing Over-Income Families [24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]

Regardless of changes in adjusted income, in some circumstances the PHA is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. PHAs are required to conduct income examinations of public housing families who

have been determined to exceed the over-income limit at specific intervals. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

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DHC-initiated Interim Reexaminations

DHC-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by DHC. They are not scheduled because of changes reported by the family.

DHC will conduct interim reexaminations in each of the following instances:

3. For families receiving the Earned Income Disallowance (EID).
4. The family has reported zero annual income (every 6-months as long as the family continues to report that they have no income).

DHC may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, to correct a previous reexamination if resident self- certification documents were used and third-party verifications subsequently become available, or to investigate a resident fraud complaint.

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Family-Initiated Interim Reexaminations Required Reporting

Families who are receiving the earned income disallowance are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

DHC will conduct interim re-examinations for families that qualify for the earned income disallowance only when the EID family's rent changes as a result of the increase.

DHC will also conduct interim reexaminations for cases in which households experience within six months following the effective date of the most recently completed annual reexamination a change in the source(s) of household income. In all other cases, DHC will note the information in the tenant file, but will not conduct an interim reexamination.

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Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination. DHC must process the request if the family reports a change that will result in a reduced family income. If a family reports a decrease in income from the loss of welfare benefits due to fraud or noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced. For more information regarding the requirement to impute welfare income see Chapter 6.

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, DHC will note the information in the resident file, but will not conduct an interim reexamination.

A FSS family, at their discretion, may request an interim reexamination if there is an increase in earned income and the increase is a direct benefit to the resident and the associated FSS escrow account.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, DHC will conduct an interim reexamination. See Section 9III.D. for effective dates.

Families may report changes in income or expenses at any time.

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9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

The family must notify the DHC of changes in writing. The family may notify the PHA of changes either orally or in writing, including email. If the family provides oral notice, the PHA may also require the family to submit the changes in writing, including email

Generally, the family will not be required to attend an interview for an interim reexamination. However, if DHC determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, DHC will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from DHC. This time frame may be extended for good cause with DHC approval. DHC will accept required documentation by mail, by fax, email, or in person.

Effective Dates

DHC must perform the interim reexamination within a reasonable time after the family request.

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If the family share of the rent is to decrease the decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

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Changes Not Reported Timely [24 CFR 960.257(b)(6)(ii) and (iii) and Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

PHA Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the PHA will apply the decrease the first of the month following completion of the interim reexamination.

However, the PHA will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to PHA management operations. The PHA will decide to apply decreases retroactively on a case-by-case basis.

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When the PHA applies the results of interim increases retroactively, the PHA will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with PHA policies.

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PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, DHC must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

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9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in DHC's utility allowance schedule. Chapter 16 discusses how utility allowance schedules are established.

Use After

PHA Policy

Unless DHC revises utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

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9-IV.C. NOTIFICATION OF NEW TENANT RENT

When DHC re-determines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the resident, not including determination of DHC's Schedule of Utility Allowances, or determines that the resident must transfer to another unit based on family composition, DHC will notify the resident that the resident may ask for an explanation stating the specific grounds of DHC's determination, and that if the resident does not agree with the determination, the resident has the right to request a hearing under DHC's grievance procedure.

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

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9-IV.D. DISCREPANCIES

During an annual or interim reexamination, DHC may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, DHC may discover errors made by DHC. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

DHC anticipates that the vast majority of families and DHC employees intend to and will comply with program requirements and make reasonable efforts to avoid errors. To ensure that DHC's program is administered effectively and according to the highest ethical and legal standards, DHC will employ a variety of techniques to ensure that both errors and intentional program abuse are minimized.

DHC will provide each applicant and resident with a copy of "Is Fraud Worth It?" (Form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

DHC will also provide each applicant and resident with a copy of HUD's "What You Should Know about EIV," a guide to HUD's Enterprise Income Verification (EIV) system. In addition, DHC will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

DHC will require mandatory orientation sessions for all prospective residents either before or upon execution of the lease at which DHC will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the head of household will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

DHC will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

DHC staff will be required to review and explain the contents of all HUD- and DHC-required forms before requesting family member signatures.

DHC may place a warning statement about the penalties for fraud on key DHC forms and form letters that request information from a family member.

PART V: NON-INTERIM REEXAMINATION TRANSACTIONS

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations, but which HUD still requires the PHA to report via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a

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separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

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- Adding or removing a hardship exemption for the childcare expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12-month EID period;
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

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EXHIBIT 9-1: CALCULATING INCOME AT ANNUAL REEXAMINATION

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Example 1: Calculating Annual Income at Annual Reexamination Using EIV

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA-published 2024 COLA is 7 percent.

Last reexamination – 3/1/2023 Annual Reexamination

Ruby:	Georgia:
Wages: $30,000	SSI: $10,980 ($915 monthly)

The EIV report pulled on 12/15/2023

Ruby:	Georgia:
Wages Total: $33,651	SSI Total: $10,980
Quarter 3 of 2023: $8,859 (City Public School)	2023 benefit $915 monthly
Quarter 2 of 2023: $8,616 (City Public School)	
Quarter 1 of 2023: $8,823 (City Public School)	
Quarter 4 of 2022: $7,353 (City Public School)	

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Income Reported on Reexamination Application	
Ruby: Wages at City Public School: $32,000 (switched jobs but no permanent change to amount)	Georgia: SSI benefits: $10,980 (no changes)
Calculating Ruby's wages: Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: $33,651). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies that the $33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use $33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.	Calculating Georgia's SSI benefit: Step 1: Determine the prior annual income from EIV (i.e., $915 x 12 months: $10,980). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination: COLA: $64.05 ($915 x 0.07) New gross SSI benefit: $11,748.60 ($979.05 x 12 months)
If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy.	
Summary of Annual Income (as reported on the HUD-50058)	
Ruby (Head of Household): Other Wage: $33,651 Myers Family Total Annual Income: $45,399	Georgia (Other Youth Under 18): SSI: $11,748

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Example 2: Calculating Annual Income at Annual Reexamination Using EIV:

Family Disagrees with EIV

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Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from $28,000 to $7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.
5/1/2023 Annual Reexamination
Wages: $28,000

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The EIV report pulled on 1/15/2024

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Wages Total: $18,271

Quarter 3 of 2023: $2,500 (Viking Bakery)

Quarter 3 of 2023: $796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: $1,300 (Sasha's Sweets)

Quarter 2 of 2023: $584 (Larry's Concessions)

Quarter 2 of 2023: $2,401 (Viking Bakery)

Quarter 1 of 2023: $6,500 (Sasha's Sweets)

Quarter 4 of 2022: $600 (Sasha's Sweets)

SS/SSI: No history of benefits

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Income Reported on Reexamination Application Wages: $0 (permanent change; no longer receiving) Social Security: $14,400 ($1,200 monthly) Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of $18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of $1,200 effective 3/1/2024.
Calculating Wages and SS Benefit
Step 1: Determine prior annual income taking into consideration the 7/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: $18,271) Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to $7,500. Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all. Process the annual reexamination effective 5/1/2024 using annual SS income of $14,400 and $0 wages.
Summary of Annual Income (as reported on the HUD-50058)
Paul (Head of Household): $14,400 (SS) Hewson Family Total Annual Income: $14,400

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Example 3: Calculating Annual Income at Annual Reexamination

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Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from $200 to $100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.

Last reexamination – 11/1/2023 Annual Reexamination

Samantha:	Fergus:
Business income: $28,000	Wages: $8,250
VA disability pension: $12,000	Other non-wage income: $3,000 (Go Fund Me online fundraiser)
Child support: $2,400	

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The EIV report pulled on 9/16/2024

Samantha:

Wages Total: $0 (no wage data reported since Q1 2023)

Fergus:

Wages Total: $8,600

Quarter 1 of 2024: $2,100 (Ian's Fish 'n' Chips)

Quarter 1 of 2024: $500 (Claire's Healthcare Supplies)

Quarter 4 of 2023: $1,000 (Claire's Healthcare Supplies)

Quarter 3 of 2023: $1,800 (The Onion Garden Shop)

Quarter 2 of 2023: $3,200 (Ivar's Fish Haus)

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Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

Samantha:	Fergus:
Business income: $28,750 (last year); has decreased to $18,000 (permanent change)	Wages: $6,000
VA disability benefit: $12,000 (last year); has increased to $12,300 (permanent change)	
Child support: $2,400 (last year); has decreased to $1,200 (permanent change)	

Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., $28,000 on last HUD–50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to $18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is $18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., $12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was $1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of $1,025, or $12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 ($12,300 in this example).

DRAFT Use After HOTMA Compliance Date Only

Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., $2,400 on the last HUD–50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from $200 to $100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular $100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 ($1,200 in this example).

Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: $8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported $6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA projected annual income of $7,800 based on the two paystubs for this employer, and EIV shows $8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

- Resolve the discrepancy between EIV wages, the $6,000 annual income Fergus reported, and the $7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of $9,000. The PHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn $9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 ($9,360 in this example).

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Calculating Fergus' Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., $3,000 on the last HUD– 50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of $0 determined in Step 3.

Summary of Annual Income (as reported on the HUD-50058)

Samantha (Head of Household): Own business: $18,000 Pension: $12,300 Child support: $1,200	Fergus (Co-head): Wages: $9,360
Poole Family Total Annual Income: $40,860	

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GLOSSARY ACRONYMS USED IN SUBSIDIZED HOUSING

AAF Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)

ACC Annual contributions contract

ACOP Admissions and continued occupancy policy ADA Americans with Disabilities Act of 1990

BR Bedroom

CDBG Community Development Block Grant (Program)

CFR Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")

CPI Consumer price index (published monthly by the Department of Labor as an inflation indicator)

EIV Enterprise Income Verification

FDIC Federal Deposit Insurance Corporation FHA Federal Housing Administration

FICA Federal Insurance Contributions Act (established Social Security taxes) FMR Fair market rent

FR Federal Register

FSS Family Self-Sufficiency (Program) FY Fiscal year

FYE Fiscal year end

GAO Government Accountability Office GR Gross rent

HAP Housing assistance payment HCV Housing choice voucher

HIP Housing Information Portal

HOTMA Housing Opportunity through Modernization Act of 2016

HQS Housing quality standards

HUD Department of Housing and Urban Development HUDCLIPS HUD Client Information and Policy System IPA Independent public accountant

IRA Individual Retirement Account

IRS Internal Revenue Service

JTPA Job Training Partnership Act

LBP Lead-based paint

MSA Metropolitan statistical area (established by the U.S. Census Bureau)

MTCS Multi-family Tenant Characteristics System (now the Form HUD-50058 sub module of the PIC system)

MTW Moving to Work

NOFA Notice of funding availability

NSPIRE National Standards for the Physical Inspection of Real Estate

OIG HUD's Office of Inspector

OMB Office of Management and Budget PHA Public housing agency

PIC PIH Information Center

PIH (HUD Office of) Public and Indian Housing

PS Payment standard

QC Quality control

QHWRA Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)

REAC (HUD) Real Estate Assessment Center

RFP Request for proposals

RFTA Request for tenancy approval

RIGI Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)

SEMAP Section 8 Management Assessment Program

SRO Single room occupancy

SSA Social Security Administration

SSI Supplemental security income

TANF Temporary assistance for needy families

TPV Tenant protection vouchers

TR Tenant rent

TTP Total tenant payment

UA Utility allowance

UIV Upfront income verification

URP Utility reimbursement payment

VAWA Violence Against Women Act

GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

Adjusted income. Annual income (as determined under 24 CFR 5.609), of the members of the family residing or intending to reside in the dwelling unit less allowable HUD deductions and allowances.

Administrative fee. Fee paid by HUD to the PHA for administration of the program. See §982.152.

Administrative plan. The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in loco parentis (in the position or place of a parent), or any individual, resident, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual contributions contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

***Prior to PHA implementation of HOTMA 102/104: Annual income*.** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

***Upon PHA implementation of HOTMA 102/104: Annual income*.** All amounts not specifically excluded in 24 CFR 5.609(b), received from all sources by each member of

the family who is 18 years of age or older or is the head of household, spouse or cohead, plus unearned income by or on behalf of each dependent who is under 18 years of age.

Annual income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area exception rent. An amount that exceeds the published FMR. See 24 CFR 982.504(b).

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See net family assets.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Bifurcate. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

Budget authority. An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

Child. A member of the family other than the family head or spouse who is under 18 years of age.

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the

extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. A citizen or national of the United States.

Co-head. An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Common space. In shared housing, the space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of databases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606– 609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR 982.619).

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

The length of the relationship The type of relationship

The frequency of interaction between the persons involved in the relationship

Day laborer. An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future

De minimis error. An error that results in a difference in the determination of a family's adjusted income of $30 or less per month.

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of dependent as specified above.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, co-head, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See person with disabilities.

Disallowance. Exclusion from annual income.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a

spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. As defined in 42 U.S.C. 1437f(f)(5).

Drug-trafficking. The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Earned income. Income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, Social Security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

A. ***Economic abuse.*** Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitle, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

Economic self-sufficiency program. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

Elderly family. A family whose head, co-head, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly person. An individual who is at least 62 years of age.

Eligible family (Family).A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area as determined by HUD, whichever number is higher, with adjustments for smaller and larger families. HUD

may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (See 24 CFR 5.603.)

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, and marital status, and can be further defined in PHA policy.

- A single person, who may be:
    - An elderly person, displaced person, disabled person, near-elderly person, or any other single person;
    - An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in

accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or

- A group of persons residing together, and such group includes, but is not limited to:
    - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
    - An elderly family;
    - A near-elderly family;
    - A disabled family;
    - A displaced family; and
    - The remaining member of a tenant family.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

Federal agency. A department of the executive branch of the Federal Government.

B. ***Foster adult.*** A member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

C. ***Foster child.*** A member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Foster child care payment. A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (See 24 CFR 5.603)

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gender identity. Actual or perceived gender-related characteristics.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR 982.610–614.)

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See person with disabilities.)

HAP contract. The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

D. ***Health and medical care expenses.*** Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and

(1) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing agency (HA). See public housing agency.

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The U.S. Department of Housing and Urban Development.

E. ***Human trafficking.*** A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

- Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).
- Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

Immediate family member. A spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

Imputed asset. An asset disposed of for less than fair market value during the two (2) years preceding examination or reexamination.

Imputed asset income. When the value of net family assets exceeds $50,000 and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

F. ***Income-based rent.*** A tenant rent that is based on the family's income and the PHA's rent policies for determination of such rents.

Income for eligibility. Annual income.

Income information means information relating to an individual's income, including:

All employment income information known to current or previous employers or other income sources

All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law

Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received

Unearned IRS income and self-employment wages and retirement income

Wage, social security, and supplemental security income data obtained from the Social Security Administration.

G. ***Independent contractor.*** An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

Individual with handicaps. See person with disabilities.

Upon PHA implementation of HOTMA 102/104: Inflationary index. An index based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) used to make annual adjustments to the deduction for elderly disabled families, the cap for imputing returns on assets, the restriction on net family assets, the amount of net assets the PHA may determine based on self-certification by the family, and the dependent deduction.

Initial PHA. In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Institution of higher education. An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

Jurisdiction. The area in which the PHA has authority under state and local law to administer the program.

Landlord. Either the owner of the property or his/her representative, or the managing agent or his/her representative, as shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

Is determined to be essential to the care and well-being of the persons; Is not obligated for the support of the persons; and

Would not be living in the unit except to provide the necessary supportive services.

Local Preference. A preference used by the PHA to select among applicant families.

Low-Income Family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Mutual housing. Included in the definition of cooperative.

National. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Prior to PHA implementation of HOTMA 102/104: Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Upon PHA implementation of HOTMA 102/104: Net family assets. (1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment. (2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two (2) years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling

the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets. (3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed $50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family. (4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

Noncitizen. A person who is neither a citizen nor national of the United States.

Non-public housing over-income family. A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent.

H. ***Over-income family.*** A family whose income exceeds the over-income limit.

Over-income limit. The over-income limit is determined by multiplying the applicable income limit for a very low-income family, as defined in 24 CFR 5.603(b), by a factor of 2.4

Notice of funding availability (NOFA). For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the five (5) year plan as adopted by the PHA and approved by HUD.

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Person with disabilities. For the purposes of program eligibility. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. For the purposes of reasonable accommodation. A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Portability. Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Private space. In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the "processing entity" is the "responsible entity."

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (PHA). Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Qualified census tract. With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

Upon PHA implementation of HOTMA 102/104: Real property. Has the same meaning as that provided under the law of the State in which the property is located.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

Recertification. Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow aged 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit

(also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See residency preference area).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Seasonal worker. An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended.

Section 214 covered programs. The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Sexual Assault. Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

Set-up charges. In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special

housing type: see 24 CFR 982.615–982.618.) ***Single Person***. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. Stopping the clock on the term of a family's voucher after the family submits a request for tenancy approval. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called tolling.

Tax credit rent. With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

I. ***Technological abuse.*** An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

Tenancy addendum. For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See family rent to owner.

Term of lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unearned income. Any annual income, as calculated under § 5.609, that is not earned income.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Very low-income family. A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Violence Against Women Reauthorization Act (VAWA) of 2013. Prohibits denying admission to, denying assistance under, or evicting from a public housing unit an

otherwise, qualified applicant or resident on the basis that the applicant or resident is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher (housing choice voucher). A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (984.103(b)), welfare assistance includes only cash maintenance payments from federal or state programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or social security.

APPENDIX A - FIREARMS AND WEAPONS POLICY

Introduction:

The Detroit Housing Commission (DHC) recognizes the importance of protecting its residents' health, welfare, and safety while simultaneously protecting the rights of its residents to keep and bear arms as established by the federal and state constitutions. To that end, DHC adopts the following Firearms and Weapons Policy.

Policy:

Residents, members of the Resident's household, and guests:

1. Shall comply with all local, state, and federal legal requirements applicable to the ownership, possession, transportation, and use of firearms or other weapons.

The term "firearm" includes any weapon from which a dangerous projectile may be propelled by an explosive or by gas or air, whether operable or inoperable, loaded or unloaded. It does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB's not exceeding .177 caliber.

2. Shall not discharge or use any firearm or other weapons on DHC property except when done in self-defense.
3. Shall not display a firearm or other weapon in any common areas, except where the firearm or other weapon is being transported to or from the Resident's unit or is being used in self-defense.
4. Shall not carry a concealed firearm, without a license to carry a concealed firearm as required by MCL 28.422, or other concealed weapon, except in accordance with Michigan law, in any common areas, except where the firearm or other weapon is being transported to or from the Resident's unit or is being used in self-defense.
5. Shall have available for inspection a copy of any permit, license, or other documentation required by state, local, or federal law for the ownership, possession, or transportation of any firearm or other weapon, including a license to carry a concealed weapon as required by MCL 28.422, upon request, when there is reasonable cause to believe that the law or this policy has been violated.
6. Shall exercise reasonable care in the storage of loaded or unloaded firearms and ammunition or other weapons.

7. Shall not allow a minor under 16 years of age to have possession of a firearm, BB gun, air gun, or spear gun unless under the direct supervision of an adult.

8. Shall not give or otherwise transfer to a minor under 18 years of age a firearm or ammunition for a firearm, unless the person is that child's parent or guardian, or unless the person first receives the permission of the minor's parent or guardian.

Violation of this policy by any Resident or member of the Resident's household shall be grounds for immediate lease termination and eviction. In addition, a Resident or member of the Resident's household who knowingly permits a guest to violate this policy shall be subject to immediate lease termination and eviction.

APPENDIX B: - USE OF COMMUNITY CENTER AND/OR KITCHEN PROTOCOL

The Community Center ("Center") and kitchen are facilities that were built with the prime objective of providing a setting that would serve to help in the enrichment of the lives of DHC Residents. The degree to which this objective becomes a reality depends jointly on both DHC management and Residents. This protocol applies to use of community centers and community rooms by and through DHC residents.

A. General Conditions

1. Who may use the Center and/or kitchen?

   Any Resident, 21 years or over, of the development is eligible to use the Center and/or kitchen. Individuals or groups wishing to use the Center and/or kitchen for meetings, parties, plays, dances, weddings, christenings, etc., must first obtain permission from the Site Manager who may consult with officers of the Resident Council prior to making a decision. Outside organized groups must be sponsored by a member of the Resident Council or DHC.

2. How to apply for the Center and/or kitchen?

   To obtain approval for use, a written request must be submitted to the Site Manager. The request must contain the following information: (a) name of the person applying, (b) date of the application, (c) date of the activity, (d) purpose for which the Center and/or kitchen will be used, (e) time during which the Center and/or kitchen will be used, and (f) requester's signature.

   The request must be submitted to the Site Manager at least one (1) week in advance of the date of the planned function. Within five (5) calendar days following receipt of the application, the Site Manager, after consultation with Resident Council regarding details of the event shall confirm with the applicant whether the request is approved. To facilitate submission of a request for use of the Center and/or kitchen, application forms are available in the Site Manager's Office. Site Managers may not accept cash monies for the use of the Center. Documented damages must be charged to the resident or sponsor.

3. Whenever the use of the Center and/or kitchen is being requested for a sponsored organized group other than DHC staff for DHC business purposes, the name of the group shall appear on the application in addition to the sponsoring resident or Resident Council. Both the sponsor and sponsored shall be responsible for the group's compliance

   with this policy.

4. The Site Manager or his representative shall inspect the Center and/or kitchen before an event to ensure its readiness for a function and after a function to determine whether the deposit may be refunded. In the event of damages to the property or equipment, the sole responsibility for repairs or replacement shall rest with the sponsor or resident who was approved to use the Center and/or kitchen on his/her behalf or on behalf of a group. Police reports may document property damage or stolen items. DHC may also use the observation of staff or residents as verification of property loss or damage. DHC may pursue legal action, if necessary.
5. No resident or sponsored organized group is allowed to charge a fee of anyone to participate in or attend any event that takes place on DHC's property without DHC's prior, written consent.
6. Closing time will be 9:00 pm except in special circumstances in which case the Site Manager will determine beginning and closing times after consulting with the resident, resident council and/or sponsor.

   In special cases, the Center and/or kitchen may be kept open beyond 9:00 pm. Special events approved for after 9:00 pm must be mindful of the peaceful enjoyment of others and accommodate such when requested.
7. Written criticism and suggestions concerning the operation of the Center and/or kitchen shall be made to the Site Manager.
8. A weekly activity schedule will be posted so that Residents can be aware of activities planned for the Center and/or kitchen.
9. All sponsored organized groups must agree to hold DHC harmless and indemnify DHC from potential liability.
10. DHC, at its discretion, may deny or cancel any request for use of the Center and/or kitchen and DHC will not be liable for any cost associated with the denial or cancellation of any request.

B. Fees

1. Residents, as individuals or sponsor, who request the use of the Center will be required to pay a non-refundable fee of $50.00 with the application.
2. Fee will be accepted in the form of money order only, completely filled out and made payable to DHC.
3. Any damages to DHC property and/or the Center will be the responsibility of the Resident.

C. Special Conditions

Residents and/or sponsored groups receiving permission for use of the Center must comply with the following requirements:

1. Floors must be swept and mopped after each function.
2. Toilet areas must be cleaned, toilets flushed, urinals and washbasins cleaned, floor swept and mopped.
3. Garbage must be collected and removed.
4. Supplies and furnishings, such as chairs, tables, book benches, etc. must be returned to their proper places.
5. The grounds, i.e., area surrounding the Center must be cleared of debris (paper or plastic cups, plates, cans, bottles, napkins, etc.).
6. After the activity, all doors and gates must be properly secured.
7. All lights must be turned off except those outside lights that are required to remain on.
8. Within 72 business hours after the function, the Resident must complete the post function section of the application, with the DHC designee.
9. The function must end before or at the time designated.
10. If other recreational areas are requested and approved for use, the grounds and surrounding areas must be cleared of debris and garbage.
11. At the discretion of DHC, Failure to clean up properly may result in warnings, fines and/or eventual prohibition from future use of the Center and/or kitchen.
12. Professional conduct is expected at all times.
13. Disruptive music, language, or activities may be considered a lease violation

IN ADDITION TO THE ABOVE REQUIREMENTS, residents and/or sponsored groups receiving permission for use of the kitchen must comply with the following requirements:

1. In order to ensure that users of the kitchen are familiar with proper food handling and storage procedures, all food items prepared or served must be done by persons with a valid Food

Handlers or Food Safety Certificate. This can be obtained from the following entity: Rockcityfoodsafety.com

2. Treat common areas and equipment with care.
3. Kitchen equipment, utensils and furnishings must be cleaned.
4. Report any equipment damage or malfunction immediately for repair to the Site Manager.
5. Clean up properly – wipe down and sanitize with a (for use on kitchens) cleaning agent, all utilized equipment and work areas. Wash kitchen wares and return to their proper location.
6. Bring your own disposables and food storage items – foil, plastic wrap, Ziplocs, food storage containers & parchment.
7. Do not leave food items in the refrigerator or kitchen area.
8. Clean as you go to maintain a safe and tidy environment.
9. Only authorized kitchen user may be present in the facility unless advance permission is obtained.
10. Never leave the burners on unattended. If you need to get something, ask someone else to watch over your burner.
11. Clean up all grease spills. Do not cook on the stove if the burner is dirty.
12. Do not leave the oven unattended for more than 15 minutes at a time.
13. In case of a small grease fire, douse the area with baking soda and/or cover the area with the lid of a pot. Do NOT use water, as this will only move the fire without putting it out.
14. In case of a large fire, pull the fire alarm.
15. Wash your hands with soap before cooking, after touching meat, after touching the trash, and more often as desired.
16. Philanthropic meals programs must enter agreements to hold DHC harmless and indemnify DHC from potential liability.
17. For-profit meals programs must provide liability insurance that names DHC as an additional insured.

NOTE: DHC may at is discretion deny or cancel any use of the Center and/or kitchen without cost to DHC.

APPLICATION FOR THE USE OF THE COMMUNITY CENTER AND KITCHEN

Page 2

Date:_____

Application Denied:_____

Date:_____

Reason:_____

_____

_____

_____

POST-FUNCTION:

Equipment used and returned in good condition.

_____

Applicant Date

INSPECTED ON BEHALF OF DHC BY:_____

(Printed Name):

_____

Date:_____ Time:_____

Was the Center cleaned? ___Yes_____No Any

damages found? _____Yes _____No

If yes, please specify:

_____

_____

_____

APPENDIX C - DETROIT HOUSING COMMISSION RESIDENTIAL CHARGE LISTING

SERVICE PLUMBING	TIME (HRS)	LABOR RATE	RATE AFTER-HOURS, WEEKENDS, HOLIDAYS	MATERIAL COST	CHARGE AFTER- HOURS, WEEKENDS, HOLIDAYS	TOTAL CHARGE 8:00 a.m. 4:30p.m.
Unstop commode	1	37.65	56.48	$ -	56.48	37.65
Unstop lavatory/bathroom sink	1	37.65	56.48	$ -	56.48	37.65
Unstop tub/shower	1	37.65	56.48	$ -	56.48	37.65
Unstop pull commode	1.5	37.65	56.48	$ -	84.71	56.48
Unstop kitchen sink	1	37.65	56.48	$ -	56.48	37.65
Replace toilet bowl	2	37.65	56.48	$26.00	138.95	101.30
Replace toilet tank	1	37.65	56.48	$59.00	115.48	96.65
Replace ballcock	1	37.65	56.48	$19.00	75.48	56.65
Replace flush handle	0.3	37.65	56.48	$12.00	28.94	23.30
Replace bathtub faucet seat	0.5	37.65	56.48	$8.00	36.24	26.83

Replace garbage disposal FINISH CARPENTRY	1	37.65	56.48	$ 54.55	111.03	92.20
Replace interior door hinges	1	35.98	53.97	$5.00	58.97	40.98
Replace exterior door hinges	1	35.98	53.97	$5.00	58.97	40.98
Replace screen door GLAZIER	1	35.98	53.97	$154.00	207.97	189.98
Replace JDW cloth	1	33.79	50.69	$3.00	53.69	36.79
Replace window screen	0.5	33.79	50.69	$21.00	46.34	37.90
Repair window screen	0.5	33.79	50.69		25.34	16.90
Replace channel screen	1	33.79	50.69	$12.90	63.59	46.69
Replace insulated window pane	1	33.79	50.69		50.69	33.79
Replace Plexiglas	1	33.79	50.69	$64.00	114.69	97.79
Install vertical Venetian	0.5	33.79	50.69		25.34	16.90
Replace screen door	1	33.79	50.69	$25.00	75.69	58.79
Remove window	1.5					50.69

mullion		33.79	50.69		76.03	
Reinstall window mullion	1.5	33.79	50.69		76.03	50.69
Replace screen door insert	0.5	33.79	50.69	$ 25.00	50.34	41.90
Re-key lock	0.5	35.98	53.97	$ 25.00	51.99	42.99
Replace lock cylinder	0.5	35.98	53.97	$ 15.00	41.99	32.99
Replace passage set	0.5	35.98	53.97	$ 10.00	36.99	27.99
Replace mortice lock set	1	35.98	53.97	$ 200.00	253.97	235.98
Key replacement	0.3	35.98	53.97	$ 2.50	18.69	13.29
Key card replacement	0		-	$ 10.00	10.00	10.00
Tenant lock out (Senior Sites)	0.5	35.98	71.96		71.96	17.99
Unlock door (All other sites)	1	35.98	71.96		71.96	35.98
MAINTENANCE TECHNICIANS 4:30 p.m.8:30a.m. (After-hours)						

Replace toiler lid cover 0.3 23.78			35.67	$30.00	40.70	37.13
Replace toilet seat 1 23.78			35.67	$10.00	45.67	33.78

Replace metal tissue holder				$ 10.00	20.70	17.13
Replace ceramic tissue holder	1	23.78	35.67	$ 15.00	50.67	38.78
Replace tissue roller	0.3	23.78	35.67	$ 2.00	12.70	9.13
Replace lavatory/tub stopper	0.3	23.78	35.67	$ 2.00	12.70	9.13
Replace basket strainer	0.3	23.78	35.67	$ 10.00	20.70	17.13
Replace tub rail	0.5	23.78	35.67	$ 50.00	67.84	61.89
Replace tub mat	0.3	23.78	35.67	$ 10.00	20.70	17.13
Install tub/shower handrail	1	23.78	35.67		35.67	23.78
Replace shower rod	0.5	23.78	35.67	$ 7.00	24.84	18.89
Replace medicine cabinet	1.5	23.78	35.67	$ 36.00	89.51	71.67

Replace range hood	0.5	23.78	35.67	$ 88.50	106.34	100.39
Replace mirror	1	23.78	35.67	$ 10.00	45.67	33.78
Replace door stop, solid	0.75	23.78	35.67	$ 3.00	29.75	20.84
Replace door stop, spring	0.5			$ 3.00	20.84	14.89
Replace door stop, disk				$ 3.00	13.70	10.13
Replace mailbox flap	0.5	23.78	35.67	$ 15.00	32.84	26.89
Replace mailbox lock	0.5	23.78	35.67	$ 8.00	25.84	19.89
Replace tubular latch	0.5	23.78	35.67	$ 10.00	27.84	21.89
Replace door knob, exterior	0.5	23.78	35.67	$ 15.00	32.84	26.89
Replace spindle, exterior	0.5	23.78	35.67	$ 5.00	22.84	16.89
Replace knob spindle, exterior	0.5	23.78	35.67	$ 5.00	22.84	16.89
Replace door sweep, exterior	0.5	23.78	35.67	$ 5.50	23.34	17.39
Replace door weather-stripping	0.75	23.78	35.67	$ 29.00	55.75	46.84
Replace screen door hinges	0.75	23.78	35.67	$ 2.00	28.75	19.84

Replace screen door closure	1	23.78	35.67	$ 5.00	40.67	28.78
Replace screen door lock	0.5	23.78	35.67	$ 5.00	22.84	16.89
Replace oven control	0.5	23.78	35.67	$ 12.00	29.84	23.89
Replace range knob	0.3			$ 2.50	13.20	9.63

Replace oven handle				$ 10.00	20.70	17.13
Replace gas cock	1	23.78	35.67		35.67	23.78
Replace grate (single burner)	0.5	23.78	35.67	$ 10.00	27.84	21.89
Replace grate (vestal)	0.5	23.78	35.67		17.84	11.89
Replace terminal block 5-9	0.5	23.78	35.67	$ 10.00	27.84	21.89
Replace bake element 5-9	0.5	23.78	35.67	$ 12.00	29.84	23.89
Replace broiler element 5-9	0.5	23.78	35.67	$ 12.00	29.84	23.89
Replace 6" surface unit 5-9	0.3	23.78	35.67	$ 10.00	20.70	17.13
Replace 8" surface unit 5-9	0.3	23.78	35.67	$ 15.00	25.70	22.13

Replace 6" chrome bowl 5-9	0.3	23.78	35.67	$ 2.00	12.70	9.13

Replace 8" chrome bowl 5-9	0.3	23.78	35.67	$ 4.00	14.70	11.13
Replace 6" top element 5-13	0.3	23.78	35.67	$ 10.00	20.70	17.13
Replace 8" top element 5-13	0.3	23.78	35.67	$ 15.00	25.70	22.13
Replace bake element 5-13	0.5			$ 15.00	32.84	26.89

Replace oven door 5-13	0.75			$ 20.00	46.75	37.84
Install closet rod	0.5	23.78	35.67		17.84	11.89
Install closet rod bracket	0.5	23.78	35.67		17.84	11.89
Replace towel rack (wall)	0.5	23.78	35.67	$ 5.00	22.84	16.89
Replace towel rack	0.5	23.78	35.67	$ 10.00	27.84	21.89
Install window shades	0.5	23.78	35.67		17.84	11.89
Replace cabinet door hinge	0.5	23.78	35.67	$ 5.00	22.84	16.89
Replace garbage can	0.3	23.78	35.67	$ 25.00	35.70	32.13

Smoke detector (battery)	0.3	23.78	35.67	$ 10.00	20.70	17.13

Replace 9V battery ELECTRICIAN	0.3	23.78	35.67	$ 2.00	12.70	9.13
Replace electric detector	0.3	37.38	56.07	$ 20.00	36.82	31.21
BUILDING ATTENDANT						
Water removal	0.5	19.64	29.46		14.73	9.82
Cleaning resident's yard	1			$ 10.00		29.64

		19.64	29.46		39.46	
Replace fire extinguisher	0.3	19.64	29.46		8.84	5.89
Clean refrigerator	1	19.64	29.46		29.46	19.64
Clean stove/range REFRIGERATOR	1	19.64	29.46		29.46	19.64

Replace refrigerator (standard)	0.5	23.78	35.67	$ 349.00	366.84	360.89
Replace refrigerator (side-by-side)	0.5	23.78	35.67	$ 851.00	868.84	862.89
STOVES/RANGES						

Replace Range (Gas)	0.5	23.78	35.67	$ 218.00	235.84	229.89
Replace Range (Electric 24")	0.5	23.78	35.67	$ 218.00	235.84	229.89
Replace Range (Electric 30")	0.5	23.78	35.67	$ 218.00	235.84	229.89
Clean/Adjust burner	1	23.78	35.67		35.67	23.78
CITATIONS						
Littering (1st offense)						54.00
Littering (2nd offense)						74.00
Failure to remove trash can from curbside (1st offense)						25.00
Failure to remove trash can from curbside (2nd offense)						45.00
Failure to cut weeds (1st offense)						54.00
Failure to cut weeds (2nd offense)						74.00
Early set-out of Bulk items (1st offense)						54.00
Early set-out of Bulk items (2nd offense)						74.00
Commercial refuse mixed with domestic refuse (1st offense)						100.00

Commercial refuse mixed with domestic refuse (2nd offense)	120.00
Burning refuse (1st offense)	100.00
Burning refuse (2nd offense)	120.00
Unapproved storage containers (1st offense)	100.00

Unapproved storage containers (2nd offense)	120.00
EXCESS MONTHLY CHARGES	
Air conditioner (June-September)	15.00
Extra refrigerator	15.00
Freezer	20.00
Replace trash container	50.00
Pets	10.00

APPENDIX D - SMOKE-FREE (AMENDED 7/1/2018) POLICY

Smoke-Free Policy

As a landlord of public housing units committed to providing a safe and healthful living environment for our residents and, in compliance with 24 CFR 965, Subpart G, Smoke- Free Public Housing, the Detroit Housing Commission ("DHC") shall be a smoke-free community effective July 1, 2018. All DHC properties shall be smoke-free. Smoking and the burning of incense is strictly prohibited. This Smoke-Free Policy applies to all DHC- owned property regardless of location. No smoking or burning of incense is permitted in any indoor or outdoor area. This includes ALL residential spaces including single family homes.

The Smoke-Free Policy also covers all DHC parking lots so there is no smoking allowed in vehicles parked in the parking lots.

DHC will be a smoke free community. Smoking is prohibited by residents, their guests, and visitors, DHC employees and service providers, and all other persons.

"No Smoking" and "Smoke Free Community" signs will be posted outside and inside all buildings.

Definition of Smoking

The term "smoking" means inhaling, exhaling, breathing, burning, carrying, or possessing any lighted cigar, cigarillo, cigarette (clove, bidis, kreteks), pipe, weed, plant, possession of any other tobacco product or related substance or product. It also means inhaling, exhaling, breathing, carrying, or possessing any activated electronic smoking device, commonly known as e-cigarettes, product. It also means smoking or vaporizing tobacco or other plant material in a waterpipe (Hookah).

Definition of Incense

A gum, spice, or other substance that is burned for the sweet smell it produces.

DHC Not a Guarantor of Smoke Free Environment

By its adoption of a Smoke-Free Policy, neither DHC nor any of its officers, agents or employees are guarantors of a resident's health or of the smoke-free condition of the property. However, DHC will take reasonable steps to enforce the Smoke-Free Policy.

Disclaimer

DHC's adoption of a smoke-free living environment does not in any way change the standard of care that DHC has under applicable law to render the property any safer, more habitable or improved in terms of air quality standards than any other rental premises. DHC specifically disclaims any implied or express warranties that the property will have any higher or improved air quality standards than any other rental property.

DHC cannot and does not warrant or promise that the property will be free from secondhand smoke. DHC's ability to police, monitor or enforce this policy is dependent in significant part on voluntary compliance by residents and residents' guests. Residents with respiratory ailments, allergies or other conditions relating to smoke are put on notice that DHC does not assume any higher duty of care to enforce this policy than any other obligation it has under the Lease.

Lease Violation

Residents are responsible for the actions of their household, their guests, and visitors. Failure to adhere to any of the conditions of this policy will constitute a material and a serious violation of the Lease. In addition, residents found to have violated this policy will be responsible for all costs to remove smoke odor or residue.

Enforcement

DHC is not required to take steps in response to smoking unless DHC has actual knowledge or evidence of smoking. Evidence of smoking in a household includes, but is

not limited to, smelling fresh or stale smoke, observing ashes or cigarette butts, observing burn marks on furniture, appliances or flooring.

In order to implement this policy in a fair manner, DHC will use the following guidelines.

1st Violation – Written warning and provision of smoking cessation materials.

2nd Violation – 30-day Termination Notice with option to remedy by signing a Last Chance Agreement and a referral to the Resident Services Department.

3rd Violation – 30-day Termination Notice with NO option to remedy.